

# OHIO CRIMINAL SENTENCING COMMISSION

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## S.B. 179 OUTLINE

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## **I. INTRODUCTION**

Substitute Senate Bill 179 of the 123<sup>rd</sup> General Assembly brings blended sentencing and other reforms to Ohio law. It is based largely on the Ohio Criminal Sentencing Commission's proposals for juvenile dispositions. These grew out of the work of the Commission's Juvenile Committee, chaired by Judge H.J. (Joe) Bressler. The bill was sponsored by Sen. Bob Latta and carried in the House by Rep. Ann Womer Benjamin.

## **II. EFFECTIVE DATES**

### **A. Generally**

Most of the bill takes effect on January 1, 2002 [Section 5].

### **B. Exception and Possible Confusion**

S.B. 181 (effective 9/4/00) authorized joint truancy complaints against children and their parents or guardians. S.B. 179 makes clear there is no right to a jury trial for adults in joint truancy cases [§§2151.35 & 2945.17]. This change took effect 4/5/01.

But §2151.35 appears twice in the bill. The bill also amends it, effective 1/1/02, to recognize the possibility of a jury trial in SYO cases (see p. 18) and to harmonize it with the Ohio Supreme Court's *In re T.R.* decision on open hearings (see p. 53).

As of 1/1/02, the two versions can be read in harmony under §1.52(B), giving meaning to both sets of amendments.

### **C. Note on "Former Law"**

The outline uses "former" law to describe current statutes to be replaced by S.B. 179's provisions on January 1, 2002. The bill will have to be harmonized with S.B. 222, which created a surpenalty for committing a felony offense of violence with body armor, effective 3/22/01.

### **III. NEW CHAPTER AND DEFINITIONS**

#### **A. Beginning a New Chapter**

For years, Chapter 2151 of the Revised Code governed juvenile courts and dispositions for abused, neglected, dependent, unruly, and delinquent children, juvenile traffic offenders (JTOs), and transfers ("bindovers") to adult court.

S.B. 179 moves bindovers, and dispositions for juvenile delinquency (both felonies and misdemeanors) and JTOs to new Chapter 2152. It increases options available to juvenile courts in delinquency cases.

Abuse, neglect, dependency, and unruly cases remain under Ch. 2151.

#### **B. Relationship Between the Chapters**

Ch. 2151 applies to new Ch. 2152 to the extent it does not conflict with the purposes and other provisions of the new chapter [§2152.01(C) and numerous cross-references in Ch. 2151].

#### **C. Conforming Changes**

Creating a new chapter necessitates several conforming changes. Part XVIII lists many of these, beginning on p. 55. They include:

- Repealing some sections outright because new Ch. 2152 supersedes them or because they were redundant or obsolete;
- Moving several sections to the new chapter;
- Dividing some sections between the two chapters as needed;
- Streamlining language in some sections; and
- Making numerous technical amendments.

#### **D. Key Definitions**

1. **"Child" in Ch. 2151.** For purposes of Ch. 2151's abuse, neglect, dependency, and unruly cases, "child" continues to mean a person under age 18 [§2151.011(B)(5)].

**Unruly Until 21.** The only change clarifies that the juvenile court retains jurisdiction of a person adjudicated unruly until age 21.

2. **"Child" in Ch. 2152.** The delinquency and bindover aspects of the definition of "child" move to the new chapter

[§2151.011(B) (5) becomes §2152.02(C)(1)]. A child is a person under age 18, subject to these exceptions:

- a. Delinquents 18 to 21.** As with unrulies, the court can retain jurisdiction over a delinquent child until 21, subject to the next exception [§2152.02(C)(2)];
- b. Persons Apprehended After 21.** A person who commits a felony act before turning 18, but is not apprehended until after age 21, is no longer a "child" in relationship to that act (meaning the case goes to adult court) [former §2151.011(B)(5)(c) becomes §2152.02(C)(3)];
- c. JTOs 18 to 21.** As with unrulies and delinquents above, the bill clarifies that the juvenile court retains jurisdiction over JTOs until age 21 [§2152.02(C)(6)];
- d. Persons Bound Over.** As before, a person bound over to adult court is no longer a "child" [former §2151.011(B)(5)(d)-(f) becomes §2152.02(C)(4) & (5)]. However, the bill streamlines these provisions and makes some subtle changes. They are discussed under bindovers on pages 13 and 14.
- e. Invoked SYOs.** The bill adds that a person given a serious youthful offender sentence is no longer a child in any future case if the adult portion of that blended sentence was invoked [§2152.02(C)(5)].

**3. "Delinquent Child".** As before, this term covers a child (except a JTO) who commits an act that would be a crime if done by an adult, violates a lawful court order, violates §2923.211(A)'s proscription against underage gun purchasing, or is a chronic or repeat habitual truant [former §2151.02 becomes §2152.02(F)].

The bill makes one substantive change. It no longer includes obtaining a tattoo, ear piercing, or other body piercing as delinquent acts. Rather, the unruly law would govern these acts, when applicable (see p. 51).

**4. "Juvenile Traffic Offender".** This definition covers juveniles who violate any traffic law, ordinance, or regulation. It moves unchanged from §2151.021 to §2152.02(N).

**5. "Juvenile Court".** Former law defined the term to mean the division of the common pleas court or juvenile court that is

separately created with jurisdiction over Ch. 2151 cases. The bill tries to clarify that "juvenile court" means either [§2151.011(A)(1)(a)-(c)]:

- a. The division of the common pleas court that the statutes specify has jurisdiction over juvenile matters (under Ch. 2151 & Ch. 2152);
- b. The separately created juvenile courts in Cuyahoga and Hamilton counties; or
- c. If neither a nor b apply, the probate division of the common pleas court.

**6. "Chronic Truant".** Since these offenders face delinquency charges under S.B. 181, the term moves unchanged to §2152.02(D) and applies by reference to Ch. 2151 [§2151.011-(B)(8)].

**7. "Probation".** See pages 36 and 37 the new definition and relationship to "community control".

**8. Other Ch. 2151 Definitions.** Otherwise, Ch. 2151 definitions do not change [§§2151.011-.04].

**9. Other Ch. 2152 Definitions.** The bill defines several other terms to allow shorthand references throughout Ch. 2152. These include "act charged", "discretionary SYO", "mandatory SYO", "discretionary transfer", "mandatory transfer", "transfer", "traditional juvenile", "enhanced", and "admission to a DYS facility". This outline discusses most of these in context below.

## **IV. PURPOSES AND PRINCIPLES**

### **A. Purposes**

**1. Historic Purposes.** Prior law said the Juvenile Code must be construed to achieve the following purposes [§2151.01]:

- Provide for the care, protection, and mental and physical development of children;
- Protect the public interest in "removing the consequences of criminal behavior and the taint of criminality" from delinquent children and to substitute instead a program of supervision, care, and rehabilitation;
- Achieve these purposes in a family environment, separating the child from parents only when necessary for the child's welfare or public safety.

**2. Future Application.** Under S.B. 179, the historic purposes remain in place for Ch. 2151's abuse, neglect, dependency, and unruly cases [§2151.01(A)].

**3. New Overriding Purposes.** The purposes change for bindover, delinquency, and traffic cases. The overriding purposes governing these Ch. 2152 cases are [§2152.01(A)]:

- Protect the public interest and safety;
- Hold the offender accountable for his or her actions;
- Restore the victim;
- Rehabilitate the offender; and
- Provide for the care, protection, and mental and physical development of children.

S.B. 179 eliminates language on "removing the consequences of criminal behavior and the taint of criminality".

The purposes must be achieved by a system of graduated sanctions and services.

### **B. Basic Principles**

These principles must be followed in Ch. 2152 cases [§2152.01(B)]:

1. Dispositions must be reasonably calculated to achieve the overriding purposes above;

2. Dispositions must be commensurate with and not demeaning to the seriousness of the offender's conduct and its impact on the victim;
3. Dispositions must be consistent with those for similar acts by similar offenders.
4. Dispositions must not be based on the race, ethnicity, gender, or religion of the offender.

### **C. Apprehension and Custody**

A juvenile may be taken into custody by a law enforcement officer or officer of the court in certain situations.

- 1. Prevent Fleeing.** The situations include when a delinquency or JTO complaint is filed and there are reasonable grounds to believe the child may abscond or be removed from the jurisdiction.

The bill adds that the juvenile may be taken into custody when indicted or charged by information as an SYO if the reasonable fear of absconding or removal exists [§2151.31(A)(6)(b)].

- 2. Protect Public Interest & Safety.** Consistent with the new purposes, the bill retains the ability to take the juvenile into custody to protect him or her [§2151.31(A)(6)(a)]. It further revives earlier law allowing an officer to take a juvenile into custody if there are reasonable grounds to believe the juvenile committed a delinquent act and that custody "is necessary to protect the public interest and safety" [§2151.31(A)(6)(d)].

## **V. DELINQUENCY OPTIONS**

### **A. In the Bill**

The bill contains three basic options for juvenile courts in felony delinquency cases. The first two are familiar, the third is new:

- Transfer to adult court (commonly called "bindover"), which is discretionary in most cases (DT), but mandatory in some (MT);
- Traditional juvenile (TJ) dispositions such as DYS terms and probationary conditions; and
- Blended sentences for serious youthful offenders (SYOs).

### **B. Not in the Bill**

S.B. 179 went through several revisions. There is confusion about which major provisions fell aside. These were *not* included in the final bill:

- Bindover reforms, including reducing the number of mandatory bindovers, creating presumed bindovers, making F-5s ineligible for transfer, and redefining Category 1 and 2 offenses;
- Extended juvenile jurisdiction beyond age 21 for certain serious offenders;
- Direct sentencing of delinquents to local detention facilities;
- A formal juvenile competency statute. (However, the bill recognizes a right to raise competency in blended sentence cases. It also contains a statement of legislative intent to pursue the issue further. See pps. 18 & 55.)

### **C. Who's Eligible?**

The following table summarizes eligibility for various dispositions set out in new §§2152.10 and 2152.11(B)-(H).

In any case in which a blended sentence is discretionary (DSYO), the court may elect to impose a traditional juvenile disposition (TJ) alone. In any mandatory blended sentence case (MSYO), the court must impose an adult sentence, suspend it, and impose a TJ disposition.

## ELIGIBILITY TABLE

OFFENSE LEVEL ↓	AGES →	DT Eligible		Not DT Eligible	
		17 & 16	15 & 14	13 & 12	11 & 10
<b>Aggravated Murder/Murder</b>		MT	MT*/MSYO	DSYO	DSYO
<b>Attempted Agg. Murder/Murder</b>		MT	MT*/MSYO	DSYO	DSYO
<b>F-1-Violent + Other Enhanced</b>		MT**/MSYO	DSYO	DSYO	DSYO
<b>F-1-Not Violent Enhanced</b>		DSYO	DSYO	DSYO	TJ
<b>F-1 Not Enhanced</b>		DSYO	DSYO	TJ	TJ
<b>F-2 Enhanced</b>		MT**/DSYO	DSYO	DSYO	TJ
<b>F-2 Not Enhanced</b>		DSYO	DSYO	TJ	TJ
<b>F-3 Enhanced</b>		DSYO	DSYO	TJ	TJ
<b>F-3 Not Enhanced</b>		DSYO	TJ	TJ	TJ
<b>F-4 Enhanced or F-5 Enhanced</b>		DSYO	TJ	TJ	TJ
<b>F-4 or F-5 Not Enhanced</b>		TJ	TJ	TJ	TJ

**Key** [§2152.11(J)]:

- **MT:** Mandatory Transfer (must be bound over to adult court).
- **DT:** Discretionary Transfer (may be bound over to adult court).
- **MSYO:** Mandatory Serious Youthful Offender (“blended”) sentence.
- **DSYO:** Discretionary Serious Youthful Offender sentence.
- **TJ:** Traditional Juvenile dispositions (no MT or SYO).
  
- **Enhanced:** One or more of the relevant enhancing factors described on pp. 15-16 is present (offense of violence, gun use, etc., or certain prior DYS terms). The relevant enhancements vary by offense and age.
- **Violent:** Offense of violence as defined in §2901.01(A)(9).

\* MT with prior DYS commitment for a Category 1 or 2 offense. Otherwise MSYO.

\*\* If Category 2 (other than kidnapping), MT with prior DYS commitment for a Category 1 or 2 offense &/or used, displayed, or indicated a firearm in the act. Otherwise MSYO (F-1s) or DSYO (F-2s).

## **VI. TRANSFERS TO ADULT COURT ("BINDOVERS")**

### **A. Bindover Summary**

In final form, S.B. 179 does not change who is subject to a mandatory or discretionary bindover (except for a subtle refinement regarding out-of-state residents). However, the bill:

- Adds more guidance to help courts decide when a bindover is appropriate (see C.2, pp. 10-13, below);
- Streamlines bindover law somewhat; and
- Moves it from former §2151.26 to new §§2152.10 and 2152.12.

### **B. Mandatory Bindovers**

**1. Eligibility and Transfer.** As in prior law, an alleged delinquent must be transferred to adult court if the juvenile court finds, at a hearing, probable cause to believe the juvenile committed the act charged as follows:

**a. Category 1.** If charged with a "category one" offense (murders and attempted murders, see 2.a below), and the accused is either:

- i. 16 or 17 at the time of the act charged; or
- ii. 14 or 15 at the time of the act charged, with a prior DYS commitment for a Category 1 or 2 offense. [Former §2151.26(B)(3) becomes §§2152.10(A)(1) & 2152.12(A)(1)(a).]

**b. Category 2.** If charged with a "category two" offense (defined in 2.b, below), other than kidnapping, the accused is 16 or 17 at the time of the act charged, and the accused:

- i. Has a prior DYS commitment for a Category 1 or 2 offense (including kidnapping); and/or
- ii. Used, displayed, or indicated a firearm to facilitate the act. [Former §2151.26(B)(4) becomes §2152.10(A)(2) & 2152.12(A)(1)(a).]

**c. Prior Bindover & Conviction.** If previously bound over for a felony and found guilty. This retains the "once an adult, always an adult" rule. [Former §2151.26(B)(1)

becomes §2152.12(A)(2)(a), referenced in §2152.10(A)(3).] For more on this, see E below.

**d. Nonresident "Adult".** If from another state and, under that state's laws, must be treated as an adult. [Former §2151.26(B)(2) becomes §2152.12(A)(2)(b), referenced in §2152.10(A)(3).]

The bill makes one substantive change here. Prior law required bindover on any charge against the nonresident "adult". The bill limits this mandatory bindover to felonies.

**2. Key Definitions.** These definitions carry over unchanged:

**a. "Category One".** Defined as aggravated murder, murder, or an attempt to commit either [moves from §2151.26(A)(1) to new §2152.02(BB)].

**b. "Category Two".** Defined as voluntary manslaughter, F-1 involuntary manslaughter, kidnapping, rape, felonious sexual penetration (under former §2907.12), aggravated arson, aggravated burglary, & aggravated robbery [moves from §2151.26(A)(2) to §2152.02(CC)].

### **C. Discretionary Bindovers**

**1. Eligibility.** As in prior law, a juvenile is eligible for transfer to adult court if the juvenile court finds:

- a. The child is at least 14;
  - b. The child is charged with a felony;
  - c. There is probable cause that the child committed the act charged; and
  - d. The child is not amenable to juvenile care and public safety may require adult sanctions (see 2 below).
- [Former §2151.26(C) becomes §§2152.10(B) & 2152.12(B).]

**2. Amenability and Safety Factors.** The most significant changes to bindover law occur here.

**a. Basic Standards Retained.** As before, after an investigation, the court must find reasonable grounds that the child is not amenable to care or rehabilitation in a juvenile facility and that community safety may require restraint that possibly extends beyond the child's majority [Former §2151.26(C)(1)(c) becomes §2152.12(C), etc.].

**b. Old Factors.** In deciding these amenability and safety issues, prior law told the court to consider "all relevant information and factors" [former §2151.26(C)(1)(c)].

It gave sketchy guidance in making these decisions. The court should consider these factors in favor of transfer: the victim was 5 or younger, 65 or older, or "permanently and totally" disabled; the victim sustained physical harm; the accused displayed, brandished, indicated, or used a firearm; and the accused has one or more unsuccessful prior DYS commitment [former §2151.26(C)(2)]. There were no specific factors to consider against transfer.

**c. New Balancing Test.** S.B. 179 rewrites the guidance on amenability and safety, substituting a balancing test and a much more textured list of factors. These include factors to weigh *both* for and against transfer. The factors listed in the bill supersede those in former law.

Courts must consider whether applicable factors indicating the case should be transferred outweigh applicable factors indicating the case should remain in juvenile court.

The court must state *on the record* which factors were applicable and weighed [§2152.12(B)(3)]. (This refines former §2151.26(F), which said the court must "state the reasons for the transfer".)

Also, as with all cases under the new chapter, the court must consider the overriding purposes and principles under §2152.01 in making these decisions (see pp. 5-6).

**d. Factors Favoring Transfer.** When relevant, the court must consider these, and any other relevant factors, in favor of bindover to adult court [§2152.12(D)]:

- i. The victim suffered physical, psychological, or serious economic harm (broader than merely looking to "physical harm" as in former law);
- ii. The victim's physical or mental harm was exacerbated by his or her physical or mental vulnerability or age (the judge is no longer tied solely to the victims' younger or older ages or "permanent and total" disability);
- iii. The juvenile's relationship with the victim facilitated the act (new);
- iv. The juvenile allegedly committed the act for hire or as a part of a gang or other organized criminal activity (new);
- v. The juvenile displayed, brandished, indicated, or used a firearm (same as former law);
- vi. At the time of the act charged, the juvenile was awaiting adjudication or disposition for delinquency, under a community sanction, or on parole for a prior delinquency (new);
- vii. The results of previous juvenile sanctions and programs show that rehabilitation will not occur in the juvenile system (broader than former law, which only asked the court to review conduct in prior *DYS* terms);
- viii. The juvenile is emotionally, physically, or psychologically mature enough for the transfer (new);
- ix. There is not sufficient time to rehabilitate the child in the juvenile system (new).

**e. Factors Against Transfer.** When relevant, the court must consider these, and any other relevant factors, against bindover to adult court [§2152.12(E)]:

- i. The victim induced or facilitated the act charged (new);
- ii. The juvenile acted under provocation in allegedly committing the act charged (new);
- iii. The juvenile was not the principal offender or, at the time of the act charged, was under the negative influence or coercion of another (new);

- iv. The juvenile did not cause physical harm to any person or property, or have reasonable cause to believe such harm would occur (broader than merely looking to "physical harm" as in former law);
- v. The youth was not previously found delinquent (new);
- vi. The child is not emotionally, physically, or psychologically mature enough for the transfer (new);
- vii. The juvenile is mentally ill or mentally retarded (new);
- viii. There is sufficient time to rehabilitate the child in the juvenile system and the level of security available reasonably assures public safety (new).

#### **D. Other Minor Changes**

S.B. 179 streamlines the language on multiple counts, making only technical changes [former §2151.26(C)(4) becomes §2152.12(F)].

With minor changes, these bindover provisions move to the new chapter:

- Provisions on notice [former §2151.26(D)] becomes §2152.12(G);
- Provisions on age limitations [former §2151.26(E)] becomes §2152.12(H);
- Provisions on the mechanics of transfer [former §2151.26(F)] becomes §2152.12(I), making clear that the court states its reasons for the transfer "on the record";
- Provisions on losing jurisdiction when the child is not apprehended until after reaching 21 [former §2151.26(G)] becomes §2152.12(J).

#### **E. Impact of Bindover**

As noted under the definition of "child" (pp. 2-3), S.B. 179 carries over the "once an adult, always an adult" rule.

- 1. Present Case.** A person bound over to adult court is no longer a child in the transferred case [former §2151.011(B)(5)(d) becomes §2152.02(C)(4)].
- 2. Future Cases.** A person bound over to adult court and convicted is no longer a child in any future case [former

§2151.011(B)(5)(e), 1<sup>st</sup> sentence, becomes §2152.02(C)(5)]. But the bill makes the following subtle changes:

a. It strikes as unnecessary language saying this principle applies regardless of the county in which the bindover and any prior or subsequent act occurred [former §2151.011(B)(5)(e), 2<sup>nd</sup> sentence];

b. It strikes language that said, while a person bound over and convicted is not a "child", that person is a child when a later delinquency complaint is filed "for purposes of the court conducting a hearing" to determine whether mandatory bindover applies [former §2151.011(B)(5)(f)].

Repeal of this language seems to allow the court to avoid a hearing in "once an adult, always an adult" situations.

**Possible Confusion:** Adult courts refer cases in which juveniles are charged with offenses to juvenile courts, in deference to juvenile courts' exclusive original jurisdiction under §2151.23. Yet, those previously bound over are no longer children under the juvenile courts' jurisdiction, including for purposes of transferring them back to adult court.

## VII. BLENDED SENTENCES

### A. Blended Sentencing Summary

S.B. 179's key reform is the blended sentence. Under it, a serious youthful offender can be sentenced both as a juvenile and as an adult. The adult sentence must be stayed pending successful completion of the juvenile term. The adult sentence can be invoked only after a hearing and only for certain serious rules violations after age 14.

### B. Eligibility: "Serious Youthful Offenders"

Only "serious youthful offenders" (SYOs) are eligible for blended sentences. Eligibility turns on the juvenile's age, the level of felony involved, and whether the act charged is "enhanced".

#### 1. Enhancements

An act is "enhanced" if any of the following factors is set forth in the complaint, indictment, or information and proved:

**a. "Offense of Violence".** The act charged is an "offense of violence" [§2152.11(A)(1)].

Under §2901.01(A)(9)--not changed by the bill--"offense of violence" includes:

- Aggravated murder & murder (§§2903.01 & .02);
- Voluntary & involuntary manslaughter (§§2903.03 & .04);
- Felonious, aggravated, & simple assault (§§2903.11, .12, & .13);
- Aggravated, stalking, & simple menacing (§§2903.21, .211, & .22);
- Kidnapping & abduction (§§2905.01 & .02);
- Extortion (§2905.11);
- Rape, sexual battery, gross sexual imposition, and former felonious sexual penetration (§§2907.02, .03, .05, & former .12);
- Aggravated arson & arson (§§2909.02 & .03);
- Aggravated robbery & robbery (§§2911.01 & .02);
- Aggravated burglary & some burglaries (§§2911.11 & .12(A)(1)-(3));
- Inciting to violence (§2917.01);
- Aggravated riot & riot (§§2917.02 & .03);
- Inducing panic (§2917.31);
- Permitting child abuse (§2903.15);
- Endangering children under §2919.22(B)(1)-(4);
- Domestic violence (§2919.25);
- Intimidation & intimidating a victim or witness (§§2921.03 & .04);
- Escape (§2921.34);
- Discharging a firearm into a home or school (§2923.161);
- Conspiracy or complicity in, or attempt to commit any of these; and
- A violation of a current or former law or ordinance anywhere in the U.S. that is substantially equivalent to these or that is committed purposely or knowingly and involves physical harm to a person.

**b. Gun.** During the act charged, the juvenile used, displayed, or brandished a firearm, or indicated possession of a firearm that he or she actually possessed [§2152.11(A)(2)].

**c. Prior DYS Term.** The juvenile previously was admitted to a DYS facility for aggravated murder, murder, an F-1 or F-2, or an F-3 offense of violence [§2152.11(A)(3)].

**"Admitted to a DYS Facility".** The bill makes clear the term covers actual *admission*--not mere *commitment*--to a facility run by, or under contract with, DYS. It includes admission to a comparable facility elsewhere in the U.S. [§2152.02(B)].

**2. MSYO and DSYO Eligibility.** The bill lays out who is eligible for blended sentences by age, offense, and enhancement in §2152.11. (The Eligibility Table on p. 8 shows both SYO and bindover eligibility. The bill contains a table showing SYO but not bindover eligibility [§2152.11(H)]. According to the bill, that table is "illustrative only" and the earlier text controls over the table if there is a discrepancy [§2152.11(I)].)

**a. MSYOs.** A juvenile faces a mandatory blend, if not bound over to adult court, for:

- i. Aggravated murder, murder, or an attempt to do either at age 14 or 15 [§2152.11(B)(1) & (C)(1)]; or
- ii. An F-1 at age 16 or 17 if it was an offense of violence *and* either the gun or prior DYS enhancement applies [§2152.11(D)(1)].

MSYO does not apply to any 10, 11, 12, or 13 year olds.

**b. DSYOs.** A juvenile faces a discretionary blend, if not bound over to adult court, for:

- i. Aggravated murder, murder, or an attempt to do either at age 10, 11, 12, or 13 [§2152.11(B)(2) & (C)(2)];
- ii. An F-1 at age 16 or 17 that does not fall in the MSYO category above [§2152.11(D)(2)(a)];
- iii. An F-1 at age 14 or 15 [§2152.11(D)(2)(b)];

- iv. An F-1 at age 12 or 13 if any of the 3 enhancements apply [§2152.11(D)(2)(c)];
- v. An F-1 at age 10 or 11 if it was an offense of violence *and* either the gun or prior DYS enhancement applies [§2152.11(D)(2)(d)];
- vi. An F-2 at age 14, 15, 16, or 17 [§2152.11(E)(1)];
- vii. An F-2 at age 12 or 13 if any of the 3 enhancements apply [§2152.11(E)(2)];
- viii. An F-3 at age 16 or 17 [§2152.11(F)(1)];
- ix. An F-3 at age 14 or 15 if any of the 3 enhancements apply [§2152.11(F)(2)]; or
- x. An F-4 or F-5 at age 16 or 17 if any of the 3 enhancements apply [§2152.11(G)(1)].

## **C. Initiating the Process**

**1. Prosecutor's Options.** Only a juvenile judge may impose a blended sentence. The judge may do so only if the prosecutor initiates the process on an eligible juvenile in one of these ways:

- a. Indictment.** Obtain a grand jury indictment as an SYO [§2152.13(A)(1)].
- b. Information.** Charge the juvenile in a bill of information as an SYO [§2152.13(A)(1)].
- c. Complaint.** Request an SYO sentence in the original complaint charging the offense [§2152.13(A)(2)].
- d. Notice.** If a, b, or c is not used, the prosecutor may file with the court a notice of intent to seek an SYO sentence.

The notice must be filed within 20 days after the date of the child's first hearing on the complaint or the date the court decides not to transfer the case to adult court. The court may extend this 20 day period for good cause shown. The court must serve a copy of the notice on the juvenile and advise him or her of the prosecutor's intent to pursue an SYO sentence [§2152.13(B)].

**Possible Confusion:** The bill gives 4 coequal ways to initiate an SYO prosecution. That may be misleading. Arguably, the right to indictment trumps the other methods. A complaint or complaint with notice can "initiate" the case and give grounds for holding the juvenile. But, it seems that, at some point, an indictment (or information, if indictment is waived) should be obtained for the SYO case to proceed.

2. **Hearing on Complaint or Notice.** If the juvenile is not indicted or charged by information, the court must hold a hearing (unless waived by the defendant) on the complaint or prosecutor's notice to determine [§2152.13(C)]:
  - If there is probable cause to believe that the juvenile committed the act charged; and
  - The juvenile is age eligible for an SYO sentence.

#### **D. The Alleged SYO's Rights**

Since the specter of adult punishment looms over the juvenile, the bill gives an alleged SYO adult rights, including [§2152.13(D)(1) & (2)]:

1. **Grand Jury.** A grand jury determination of probable cause that the juvenile committed the act charged and is age-eligible to be an SYO. The general division common pleas court or the juvenile court may impanel the grand jury.

2. **Open and Speedy Jury Trial.** An open and speedy trial by jury in juvenile court, and to a transcript of the proceedings.

The speedy trial time begins on whichever of the following dates is applicable: (a) the date the child is indicted or charged by information; (b) the date of filing a complaint seeking an SYO sentence; or (c) the date of filing notice to seek an SYO sentence.

3. **Bail.** Bail if detained awaiting adjudication, upon indictment or information.

4. **Criminal Process.** Application of the Criminal Rules and Title 29, (except as provided in §2152.14(D) regarding a hearing to invoke the adult portion of the sentence);

5. **Counsel.** The right to counsel, which cannot be waived;

6. **Competency.** The right to raise the issue of competency;

**7. Appeals.** The right to appeal the adult portion of a SYO sentence under §2953.08(A)(1), (3), (4), (5), or (6) [§2152.13(E)(3)]. These are the so-called "S.B. 2 appeals" (1996).

**8. Other Rights.** Any other rights afforded an adult.

#### **E. MSYO Sentencing**

If a juvenile court finds an offender delinquent for an act that requires a mandatory serious youthful offender (MSYO) sentence, the court must [§2152.13(E)(1)]:

**1. Adult Sentence.** Impose a sentence under Ch. 2929, as if the juvenile were an adult (except that death and life without parole are not available);

**2. Juvenile Disposition.** Impose one or more traditional juvenile dispositions under §§2152.16 and 2152.19; and

**3. Stay.** Stay the adult sentence pending successful completion of the traditional juvenile disposition(s).

**4. Options.** Note that a "mandatory" SYO means that the blended sentence must be imposed. It does not require the court to impose a DYS term or to invoke the adult portion of the sentence.

#### **F. DSYO Sentencing**

If a juvenile is found delinquent for an act that allows for a discretionary serious youthful offender (DSYO) sentence, the juvenile court may [§2152.13(E)(2)]:

**1. Adult Sentence After Finding.** Impose a sentence under Ch. 2929, as if the juvenile were an adult (except death and life without parole are not available), provided the court first finds, on the record, that [§2152.13(E)(2)(a)(i)]:

- Given the nature and circumstances of the violation and the history of the child, the length of time, level of security, and types of programming and resources available in the juvenile system alone are not adequate to provide the court with a reasonable expectation that the overriding purposes in §2152.01 will be met;

**2. Juvenile Disposition.** Impose one or more traditional juvenile dispositions under §§2152.16, 2152.19, 2152.20, and, if applicable, §2152.17 [§2152.13(E)(2)(a)(ii)]; and

**3. Stay.** Stay the adult sentence pending successful completion of the traditional juvenile disposition(s) [§2152.13(E)(2)(a)(iii)]; or

**4. Juvenile Only.** If the court does not make the finding in 1, above, it may impose, as the sole disposition, one or more traditional juvenile dispositions under §§2152.16, 2152.19, and, if applicable, §2152.17 [§2152.13(E)(2)(b)].

#### **G. Invoking the Adult Sentence From DYS**

**1. Eligibility.** If a juvenile is at least 14, in (or escaped from) DYS custody, and serving the juvenile part of a blended sentence, the DYS Director may ask the prosecutor from the committing county to file a motion with the committing court to invoke the adult part of the SYO sentence. The prosecutor may file the motion if no request comes from DYS [§2152.14(A)(1)].

**2. Misconduct.** The motion must state that there is reasonable cause to believe that either of the following types of misconduct occurred [§2152.14(A)(2)]:

- A violation of the institution's rules that could be charged as a felony or a violent M-1 if committed by an adult; or
- Conduct that creates a substantial risk to the safety or security of the institution, community, or victim.

At least one incident of misconduct must have occurred after the juvenile reached age 14.

#### **H. Invoking the Adult Sentence from the Community**

**1. Eligibility.** If a person is at least 14 and serving the juvenile part of a blended sentence in the community (e.g., on community control or parole), the sentencing court, supervising probation officer, or DYS Director may ask the committing county's prosecutor to file a motion with the committing court to invoke the adult part of the sentence. The prosecutor may file the motion if he or she does not receive such a request [§2152.14(B)].

**2. Misconduct.** The motion must state there is reasonable cause to believe that either of the following misconduct occurred [§2152.14(B)(1) & (2)]:

- A violation of the conditions of supervision that could be charged as a felony or a violent M-1 if committed by an adult; or
- Conduct that creates a substantial risk to the safety or security of the community or victim.

**I. When Prosecutor Refuses**

If the prosecutor declines a request to file a motion to invoke the adult sentence within a reasonable time, DYS or the supervising probation department may file. If the prosecutor declines the court's request to file in a reasonable time, the court may hear its own motion [§2152.14(C)].

**J. Invoking Hearing**

**1. Court's Options.** Once the motion is filed, the court can refuse to consider it. However, if the court considers the motion, it must do so at a hearing [§2152.14(D)].

**2. Rights.** At the hearing, the person facing the adult term has these rights [§2152.14(D)]:

- To be present;
- To receive notice of the grounds for invoking;
- To counsel, which cannot be waived;
- To be advised on the procedures and protections in the Juvenile Rules;
- To present evidence on his or her behalf, including evidence of a mental illness or mental retardation, which the court must consider; and
- To an open hearing.

**K. Invoking Findings**

The court may invoke the adult sentence only if it finds all of the following by clear and convincing evidence [§2152.14(E)]:

- The person is serving the juvenile part of an SYO sentence;
- The person is at least 14 and has been admitted to a DYS facility or criminal charges are pending against the person (this

implies that the adult term cannot be invoked from the community if the offender has not first spent time at DYS);

- The person engaged in the misconduct charged;
- The person's conduct shows that he or she is unlikely to be rehabilitated during the remaining juvenile jurisdiction period.

#### **L. Once Invoked**

**1. Transfer.** If the court invokes the adult sentence, the juvenile part of the blended sentence ends and DYS must transfer the person to DRC or place the person under any other sanction imposed as part of the sentence [§2152.14(F)].

**2. Credit.** The court must state the number of days that the person was held in detention or by DYS (or in a facility under contract with DYS) during the juvenile part of the sentence. Any prison term must be reduced by this time, plus any days held awaiting transfer [§2152.14(F)].

**3. Sentence Cap.** The total prison term cannot exceed the maximum term available for an adult convicted of the same offenses, including time credited under 2, above [§2152.14(F)].

**4. Adult System Supervises.** Community control imposed as a condition of a judicial release from prison must be supervised by the adult probation system. The Adult Parole Authority supervises any post-release control imposed after a prison term [§2152.14(F)].

**5. Once Invoked, Always an Adult.** The bill adds to the definition of "child" that once the adult part of a blended sentence is invoked, the offender is not a child in any future case [§2152.02(C)(5)]. This parallels bindover and conviction.

#### **M. Related Changes**

**1. No Dual Venue.** Generally, juvenile cases have dual venue. They may be brought either in the county in which the act occurred or in the county in which the youth resides. The bill makes an exception for SYO cases, given their adult-like process. SYO proceedings must occur in the county in which the alleged offense occurred [§2151.271].

**2. Separate Court Room Not Needed.** Generally, the law requires counties to provide a "special room" for juvenile cases that

is not used for criminal or adult cases [§2151.24(A)]. Under the bill, a separate room is not needed for SYO cases [§2151.24(B)].

The bill also excepts SYO cases from the general rule that juvenile cases (apart from habitual or chronic truancy cases) must be heard separately from adult cases [§2151.35(A)(1), 2<sup>nd</sup> ¶].

**3. Detention.** Generally, a child should not be held in a juvenile detention facility while awaiting adjudication. However, the bill allows the court to hold an alleged SYO prior to implementation of the court's final order [§2151.31(C)(2)], unless released on bond.

**4. Charging.** Since indictment and information are new to juvenile court, the bill specifically authorizes them in SYO cases, in addition to the traditional complaint [§2152.021]. The bill amends many other sections to reflect this change. Part XVIII lists them.

Under §2151.27, other cases still begin by complaint. But the parts of that section relevant to delinquency cases move to §2152.021, minus provisions on victims.

## **N. Suggested Rule Amendments**

### **1. Recognize SYOs**

The bill asks the Supreme Court to change the Juvenile Rules to be consistent with the bill, particularly regarding the new SYO sentence [Section 6, 1<sup>st</sup> ¶].

### **2. Jury Trial Cooperation**

The bill asks the Supreme Court to take "appropriate" action, including amending the Government of the Judiciary Rules or other rules, to encourage cooperation between courts to implement the bill, especially the jury trial provisions [Section 6, 3<sup>rd</sup> ¶].

## **O. SYO Data Collection**

The General Assembly encourages the Supreme Court to collect data from each juvenile court, and report to the General Assembly, on the following [Section 8]:

- The number of juveniles for whom an SYO sentence is sought;
- The number of jury trials held in SYO cases.

## VIII. DYS TERMS

For years, §2151.355 governed delinquency dispositions. With each new wrinkle in the law, the section grew more difficult to use. While it does not eliminate all the nuances, S.B. 179 reorganizes former §2151.355 into a series of sections by topics. New §2152.16 covers basic DYS terms.

### A. DYS Terms Summary

**1. In the Bill.** The ranges of DYS terms available in delinquency cases remain the same, whether imposed as a traditional juvenile (TJ) disposition alone or as the juvenile part of a blended (SYO) sentence.

**2. Not In the Bill.** Initially, S.B. 179 proposed different possible DYS terms for each felony level. It proposed mimicking adult law by placing attempted murders in the F-1 category, eliminating the 6 to 7 year term. Also, it would have extended the maximum term for certain serious offenders beyond age 21. None of these changes remained in the final bill.

### B. DYS Terms by Offense

As under former law, juvenile courts may commit delinquents to secure DYS confinement as follows [§2152.16(A)]:

**1. Murders.** For aggravated murder or murder, until age 21 [former §2151.355(A)(6) becomes §2152.16(A)(1)(a)]. The lack of a minimum term indicates that commitment to age 21 is the only DYS option for these offenses;

**2. Attempted Murders.** For attempting an aggravated murder or murder, for a "minimum" period of 6 to 7 years and a maximum period not to exceed age 21 [former §2151.355(A)(5)(b) becomes §2152.16(A)(1)(b)];

**3. Some Category 2s.** For voluntary manslaughter, F-1 involuntary manslaughter, kidnapping, agg. robbery, agg. arson, and certain rapes, for a "minimum" period of 1 to 3 years and a maximum of age 21 [former §2151.355(A)(5)(a) becomes §2152.16(A)(1)(c)];

**4. Other F-1s & F-2s.** For any other F-1 or F-2, for a "minimum" of 1 year and a maximum of age 21 [former §2151.355(A)(5)(c) becomes §2152.16(A)(1)(d)];

**5. F-3s, F-4s, & F-5s.** For any F-3, F-4, or F-5, for a "minimum" of 6 months and a maximum of age 21 [former §2151.355(A)(4) becomes §2152.16(A)(1)(e)].

**C. Maximum Term**

No DYS term can extend beyond age 21 [§2152.17(D), 2<sup>nd</sup> ¶].

**D. Minimum = Court Control**

As before, the offender does not have to serve the entire "minimum" term. Rather, "minimum" refers to the period the court retains control over the disposition. Generally, the court can release the offender in this period, but DYS cannot. Similarly, DYS cannot move the offender to a nonsecure setting during this period without the court's permission [§2152.16(A)(2)].

As before, DYS has authority to release the offender any time between the end of the court's "minimum" period of court control and the offender's 21<sup>st</sup> birthday [§§2152.16(B) & 5139.05(B)].

These provisions also matter in the judicial release statute (pp. 31-34).

**E. DYS Terms Table**

This table shows the DYS terms available by felony level [§2152.16(A)]. The "minimum" refers to the period in which the court, rather than DYS, can release the offender.

**DYS TERMS**

<b>OFFENSE LEVEL</b>	<b>"MINIMUM" TERM</b>	<b>MAXIMUM TERM</b>
<b>Agg. murder &amp; murder</b>	Until 21	Age 21
<b>Attempted murders</b>	6 or 7 years	Age 21
<b>Some violent felonies*</b>	1 to 3 years	Age 21
<b>F-1</b>	12 months	Age 21
<b>F-2</b>	12 months	Age 21
<b>F-3</b>	6 months	Age 21
<b>F-4</b>	6 months	Age 21
<b>F-5</b>	6 months	Age 21

\* Voluntary manslaughter, F-1 involuntary manslaughter, kidnapping, aggravated robbery, aggravated arson, and certain rapes.

Of course, the judge generally can elect not to impose a DYS term. See §2152.19 for community dispositional options (pp. 36-41).

As in former law, if the judge commits an offender to DYS, the judge cannot designate a particular DYS facility for the child [former §2151.355(F)(1) becomes §2152.18(A)]. That remains DYS's prerogative.

#### **F. Minimum Age and Enhancements**

S.B. 179 changed the law on enhancements to DYS terms, such as gun specs, and reduced to 10 the minimum age at which an offender can be committed to DYS custody. (See pp. 28-30 & 35.)

#### **G. Priors and Victims**

**1. Prior Offenses.** As before, at disposition, the court must determine whether the offender has a prior delinquency disposition (felony or misdemeanor). If so, the court must consider the prior act as a conviction for purposes of statutes that change penalties based on criminal history [former §2151.355((E)(2) becomes §2152.16(C)]. The bill also clearly applies this to §2152.19's financial sanctions.

**2. Victims' Ages.** Former law required the court to determine whether the victim was 5 or younger, 65 or older, sustained physical harm, or was permanently and totally disabled at the time of the delinquent act. The court also had to determine if the act was an offense of violence. These facts had to be considered in favor of imposing a DYS term [former §2151.355(E)(1)].

The bill moves instead toward broader protections for victims with new §2152.01. Together with other purposes, the court must protect public safety and restore the victim. So, rather than consider a very young, aged, or "permanently and totally disabled" victim, the court should weigh each victim's vulnerability and loss.

#### **H. Underage Weapons Purchase**

As in prior law, the status offense of purchasing or attempting to purchase a firearm while under age 18 is a delinquent act [§2923.211(A)]. The possible DYS term for the offense does not change (6 months until age 21 under former §2151.355(A)(4)). The bill merely classifies the act as an F-4 delinquency [§2923.211(C)].

#### **I. Commitment-Related Duties**

As before, a juvenile court has several duties once it commits an offender to DYS, the court must:

- Credit the offender for time spent in detention in the case [former §2151.355(F)(6) becomes §2152.18(B)];
- Provide DYS with medical records, Code sections violated, journal entry of commitment, victim impact statement, predisposition investigation report, etc. As before, DYS can refuse to accept custody if not given these documents [former §2151.355(F)(2) becomes §2152.18(C)(1)];
- Within 20 days, provide DYS with the offender's birth certificate and social security number, or a good excuse [former §2151.355(F)(3) becomes §2152.18(C)(2)];
- For certain offenses committed by persons 14 or older, provide the school district with information required by S.B. 181, within 10 days [former §2151.355(K) becomes §2152.18(D)(1) & (2)];
- Notify the school attended by the child of the commitment. This must be done within 14 days. Prior law did not specify a timeframe [former §2151.355(F)(4) becomes §2152.18(D)(3)]. Similarly, DYS now has 14 days after release from its facility to provide the court with an updated school transcript, etc. [former §2151.355(F)(5) becomes §2152.18(D)(4)];
- Notify the victim of any right to recover damages from the child's parents or reparations from the State [former §2151.355(G)(1) becomes §2152.18(E)].

## IX. SENTENCE ENHANCEMENTS

A DYS commitment can go beyond a basic term in certain situations. These are gathered in §2152.17. S.B. 222's body armor spec (effective 3/22/01) has not yet been harmonized with S.B. 179.

### A. Gun and Gang Specs

The bill clarifies how gun and gang specs apply in juvenile court.

**1. Former Uncertainty.** The Code authorized a DYS term for having a firearm during a felony other than CCW and for certain offenses committed with a gang. The extra penalties were available after proof of a firearm specification ("gun spec") or a gang specification ("gang spec") [former §2151.355(A)(7)(a) & (b)].

However, it was unclear whether the additional terms were mandatory or optional. The penalty language appeared to require a mandatory term, but it was placed in a dispositional statute that seemed to require added time only if the court decided to send the offender to DYS for the underlying offense.

**2. How Clarified.** Gun and gang dispositions move from former §2151.355(A)(7)(a)&(b) to §2152.17(A)&(C). As before, for additional time, a spec must be charged and proved. Here are the changes.

**a. Possession Spec.** For possession only (other than CCW), the court must impose an additional term of up to 1 year *if* it decides a DYS term is warranted for the underlying offense [§§2152.17(A)(1) & 2941.141].

[**Note:** §2152.17(D) says that any gun spec is consecutive to, and prior to, the underlying term. This is literally true. But, unlike the other specs, the possession spec applies only if the judge *elects* to impose a DYS term for the underlying offense and *elects* to add any time for the spec.]

**b. Other Gun and Gang Specs.** For all other gun specs and the gang spec, the additional term is mandatory and runs consecutively to, and prior to, the DYS term for the underlying offense, which also must be imposed. It also runs consecutively to, and prior to, any other gun or gang spec imposed, subject to the cap noted below or the offender's 21<sup>st</sup> birthday [§2152.17(D)].

- For using, indicating, brandishing, or displaying the gun, the court must add from 1 to 3 years [§§2152.17(A)(2) & 2941.145];
- For having an automatic, muffled, or silenced weapon, the court must add from 1 to 5 years [§§2152.17(A)(3) & 2941.144];
- For a drive-by shooting, the court must add from 1 to 5 years [§§2152.17(A)(3) & 2941.146];
- For participating in a criminal gang in committing aggravated murder, murder, or a violent F-1, F-2, or F-3, the court must add from 1 to 3 years [§2152.17(C) & 2941.142].

**c. Note on the Gang Spec.** The gang spec just summarized covers a broader list of offenses than former law. Added time formerly was available for committing an offense in Category 1 (agg. murder, murder, or attempts) or Category 2 (vol. manslaughter, F-1 invol. manslaughter, rape, agg. arson, agg. robbery, agg. burglary, & kidnapping) [former §2151.355(A)(7)(b)].

**d. Spec Sections.** The bill also amends sections that lay out the actual gun and gang specs. It makes clearer they can be used in juvenile cases, consistent with §2152.17 [§§2941.141(C)--possession spec; 2941.142(B)--gang spec; 2941.144(C)--automatic, muffled, or silenced firearm spec; 2941.145(C)--display, brandish, indicate, or use spec; & 2941.146(B)--drive-by shooting spec].

**3. Comparison Table.** Here is how S.B. 179's gun and gang specs compare with former juvenile law and adult law.

### GUN AND GANG SPECS

	ADULT LAW §2929.14(D)&(I)	PRIOR LAW* §2151.355(A)(7)	S.B. 179 §2152.17(A)&(C)
<b>Gun possessed (not CCW)</b>	1 year mandatory	1 year discretionary	0 to 1 year if sent to DYS
<b>Gun displayed, brandished, used</b>	3 years mandatory	3 years discretionary	1 to 3 years mandatory
<b>Automatic or silenced gun</b>	6 years mandatory	3 years discretionary	1 to 5 years mandatory
<b>Drive-by shooting</b>	5 years mandatory	3 years discretionary	1 to 5 years mandatory
<b>Gang involvement</b>	1, 2, or 3 years mandatory	1 to 3 years discretionary	1 to 3 years mandatory

\* Most juvenile courts read these as discretionary.

**4. Caps on Specs.** Former law set the maximum spec time at 3 years [§2151.355(A)(7)(c)]. This limited the court's ability to impose consecutive specs, such as for drive-by shootings.

Under the bill, an offender cannot receive "a specification" that exceeds 5 years [§2152.17(D), 1<sup>st</sup> sentence]. While the language is confusing, the intent was to limit *multiple* specs to 5 years.

As before, in no case can the juvenile term extend beyond age 21 [§2152.17(D), 2<sup>nd</sup> ¶].

**5. Accomplices.** The bill provides that the gun specs apply to an accomplice juvenile "to the same extent" they apply to an adult accomplice in a criminal case [§2152.17(B)].

## **B. Consecutive DYS Terms**

S.B. 179 carries over the authority to order consecutive terms for a multiple offender, provided the terms do not hold the offender past age 21. [Former §2151.355(B)(3) becomes §2152.17(E).]

## **C. Repeat Violent Offenders**

**1. Finding.** S.B. 2 (1996) allowed an additional prison term for adult "repeat violent offenders" (RVOs). The following juvenile adjudications can be considered a prior offense for this enhancement (not changed):

- Aggravated murder & murder;
- Rape & felonious sexual penetration [former §2907.12];
- Involuntary manslaughter;
- Any F-1 or F-2 resulting in death or physical harm to a person;
- Complicity in or an attempt to commit any of these; or
- Any substantially equivalent offense.

However, under S.B. 2, the act only could be used if the juvenile court sent the offender to DYS and specifically found that the adjudication should be considered in future application of the RVO penalties [former §2929.01(DD)(2)(b)].

**2. Finding Not Required.** The bill carries over the list of juvenile offenses that could later be considered in imposing an RVO term on an adult. However, the juvenile court no longer has to make a finding to be used in future RVO cases [§2152.17(F)].

## **X. RELEASE FROM DYS**

Substantively, the law on releasing persons from DYS remains true to prior law. But, S.B. 179 changes terms and streamlines some language.

### **A. DYS Is Temporary**

As before, a DYS disposition is a temporary order that continues for the period designated by the court or until the offender reaches age 21. DYS cannot free the offender before the minimum period of court control set by the judge ends [§§2151.38(A) & 2152.22(A)].

### **B. Release Generally**

Almost everyone sent to DYS will be released by one of these methods:

1. By the judge during the "minimum" term in one of the two ways discussed in F and G below (common);
2. By DYS's Release Authority after the minimum, but before age 21 (common);
3. By transfer to DRC after the adult part of a blended sentence is invoked (fairly rare);
4. By reaching age 21 (rare); or
5. By medical release under §5139.54 (rare).

The bill makes subtle changes in the releases controlled by the judge (method 1, above). The 3<sup>rd</sup> method is new. The bill does not change the other methods.

As before, the entity that supervises the offender after release, if any, depends on the nature and timing of the release.

### **C. New Terminology**

Under former law, release by the judge during the 1<sup>st</sup> half of the minimum term was called "judicial release". Release during the 2<sup>nd</sup> half of the minimum was called "early release". The quoted terms were confusing, since judges controlled both "early" and "judicial" release, and since "early" release was the later of the two. The bill uses "judicial release" to describe both, eliminating the term "early release".

### **D. Timing Generally**

1. **Classified Felonies.** Rather than refer to the 1<sup>st</sup> or 2<sup>nd</sup> "half" of the minimum, the bill puts the dividing time at 180 days for F-

1s & F-2s and at 90 days for F-3s, F-4s, & F-5s [§2152.22(B)(1)(a) & (b) and (C)(1)(a) & (b)]. (This change makes little practical difference. It is a vestige of an earlier draft of the bill that set different minimums by felony level.)

**2. Murders.** S.B. 179 retains the "half" rule for those given dispositions "until age 21" with no minimum [(B)(1)(c) & (C)(1)(c)]. This only applies to aggravated murder and murder.

**3. Attempted Murders.** Both former law and the bill are silent as to those sentenced for attempted aggravated murder or murder (6 or 7 years to age 21). On one hand, the "half" rule may apply (either half of the 6 or 7 or half of the time until 21). On the other hand, since the offense is an F-1, the 180 day timeframe may apply.

#### **E. Timing: Gun and Gang Specs**

Since gun and gang spec time must run prior to the DYS term for the underlying offense, the judicial release clock does not begin to run until the spec time is completed [see §2152.17, pp. 28-29].

#### **F. Judicial Release to Court Supervision**

This describes release by the judge during the *first* 90 days of an F-3, F-4, or F-5 term, the first 180 days of an F-1 or F-2 term, or the first half of an "until 21" term. The local probation department provides supervision after release. The phrase replaces "judicial release" [§2152.22(B)(1)-(3) supersedes former §2151.38(B)(1) & (2)].

**1. Request.** As before, if DYS, the offender, or the offender's parents want the offender released to court supervision, a request must be filed with the committing court.

**2. Court's Options.** On receipt of such a request, or on its own motion, the court has 3 options [§2152.22(B)(2), 1<sup>st</sup> ¶]:

- a. Approve the request by journal entry;
- b. Schedule a hearing within 30 days (a change from the 20 day deadline in former law); or
- c. Reject the request by journal entry without a hearing.

**3. Request Limit.** As before, if the court rejects a request by a parent or offender, that person may make *one* later request, no earlier than 30 days after the filing the prior request. The court has the same options listed in F.2., above [§2152.22(B)(2), 2<sup>nd</sup> ¶]. This

does not preclude a later application for judicial release to DYS supervision (G below).

**4. Hearing.** As before, if the court sets a hearing, it may order DYS to deliver the child or may hold the hearing without the child. It may require DYS to report on the child's progress and to suggest conditions of supervision after release [§2152.22(B)(3), 1<sup>st</sup> ¶].

As before, if the court orders a release, the court's staff must prepare a plan that may include conditions suggested by DYS, if approved by the court. Release discharges the offender from DYS's custody [§2152.22(B)(3), 2<sup>nd</sup> ¶].

### **G. Judicial Release to DYS Supervision**

This describes release by the judge during the *second* 90 days (for F-3s, F-4s, & F-5s), second 180 days (for F-1s & F-2s), or second half (for "until 21") of the court control period (the so-called "minimum" term). DYS provides supervision after release. The phrase replaces "early release" [§2152.22(C)(1)-(3) supersedes former §2151.38(C)(1)-(3)].

**1. Request.** As before, if DYS, the offender, or the offender's parents want the offender released to DYS supervision, a request must be filed with the committing court.

**2. Court's Options.** As before, on receipt of such a request, or on its own motion, the court has 3 options [§2152.22(C)(2), 1<sup>st</sup> ¶]:

- a. Approve the request by journal entry;
- b. Schedule a hearing within 30 days; or
- c. Reject the request by journal entry without a hearing.

**3. Request Limit.** As in prior law, if the court rejects a request by a parent or offender, that person may make no more than one later request every 90 days. The court has the same options listed in G.2 above [§2152.22(C)(2), 2<sup>nd</sup> ¶].

**4. Hearing.** As before, if the court sets a hearing, it may order DYS to deliver the child or may hold the hearing without the child. It must require DYS to provide a post-release treatment plan [§2152.22(C)(3), 1<sup>st</sup> ¶].

As before, if it orders a release, DYS must prepare a treatment plan [§2152.22(C)(3), 2<sup>nd</sup> ¶].

**5. Placement.** As before, the actual release date is contingent on DYS finding a suitable placement [§2152.22(C)(3), 3<sup>rd</sup> ¶].

**H. Violations**

As before, for serious violations of release conditions, after a hearing, the court of the placement county may return the offender to DYS or make another proper disposition [former §2151.38(D) becomes §2152.22(D)].

**I. DYS's Prerelease Duties**

As before, prior to a judicial release, DYS must develop a plan and conditions, discuss them with the juvenile and his or her parents, *et cetera* [former §2151.38(E) becomes §2152.22(E)].

**J. DYS's Progress Reports**

As before, DYS must file regular progress reports with the committing court on those granted judicial release to DYS supervision [former §2151.38(F) becomes §2152.22(F)].

**K. Releases After the "Minimum"**

The bill makes clear that the committing court retains jurisdiction regarding violations by those released by DYS on parole under §§5139.51 and 5139.52 [§2152.22(G)]. Other than technical corrections, the bill does not change those provisions.

## **XI. MINIMUM DYS AGE**

### **A. Reduced for Certain Serious Offenders**

S.B. 179 lowers the minimum age for commitment to DYS's custody from 12 at the time of commitment to 10 at the time of the delinquent act.

However, the only 10 or 11 year olds eligible for DYS commitment are those adjudicated delinquent for aggravated murder, murder, a violent F-1 or F-2, or arson [§5139.05(A)].

### **B. Other Statutory Limits**

The bill instructs DYS to place those 10 and 11 year olds in an institution, a "residential care facility" or a "residential facility" [defined in §2151.011], or a facility licensed by the Department of Job and Family Services that DYS considers best for the offender's training and rehabilitation.

The offender must be housed separately from older youths until age 12 [§5139.05(A)(4)].

### **C. Gubernatorial Limits**

Picking up on the flexibility given to DYS by the bill, in signing S.B. 179, Governor Bob Taft issued Executive Order 2001-01T. Under it:

- DYS must contract with private agencies to house any 10 and 11 year olds that it receives;
- At age 12, DYS must review the offender's case plan and decide whether to continue private placement or transfer to a DYS facility;
- Echoing the bill, 10 and 11 year olds cannot be housed with older offenders.

## **XII. COMMUNITY DISPOSITIONS**

### **A. Community Dispositions Summary**

Most juvenile offenders receive sanctions and services in the community, not DYS terms. S.B. 179 retains these familiar community dispositions, but groups them more cohesively and standardizes them. [Various provisions in former §2151.355 become new §2152.19.] Financial dispositions move to §2152.20 (see pages 42 through 45).

### **B. Community Control**

**1. Community Control.** Under S.B. 179, the court may place a delinquent juvenile on "community control" under any sanctions, services, and conditions that the court prescribes [§2152.19(A)(3)]. This supersedes placing the juvenile on "probation" under former law [former §2151.355(A)(2)].

**2. A Note on Probation.** Those familiar with the justice system consider "probation" a type of supervision imposed for an offense involving contact between the offender and a probation officer. Yet, "probation" has come to stand for a broad range of community services, whether truly "probation" or not.

The bill moves away from using "probation" as the overarching term for these services. It instead characterizes these as sanctions and conditions of "community control", which includes basic and intensive probation supervision among the other services. To this end, rather than carry forward a definition of "probation", the bill instead refers to "sanction, service, or condition" described in new §2152.19(A)(3) [§2151.011(B)(38)]. Thus, these also would be available in Ch. 2151 cases, when appropriate.

**3. Community Control Sanctions and Conditions.** In recent years, the Juvenile Code echoed the broad range of community options fostered by S.B. 2 for adult felons in 1996. While these provisions are recent, they are characterized as "former" law here to distinguish them from changes in S.B. 179 *per se*.

Under the bill, community control includes, but is not limited to:

**a. Basic Probation Supervision.** Ordering the offender to maintain contact with a person required by the court to supervise the offender in accordance with sanctions imposed

by the court [former §2151.355(A)(2) & (A)(17) become §2152.19(A)(3)(a)];

**b. Intensive Probation Supervision.** Ordering the juvenile to maintain frequent contact with a person required by the court to supervise the offender while the offender seeks or maintains employment and participates in training, education, and treatment programs ordered by the court [former §2151.355(A)(16) becomes §2152.19(A)(3)(b)];

**c. Day Reporting.** Requiring the offender to report to a specified location at specified times to participate in work, education, training, treatment, and other approved programs [former §2151.355(A)(12) becomes §2152.19(A)(3)(c)];

**d. Community Service.** Requiring up to 500 hours for a felony or M-1, up to 200 hours for a M-2, M-3, or M-4, or up to 30 hours for a minor misdemeanor [§2152.19(A)(3)(d)]. This replaces former §2151.355(A)(14), which allowed up to 500 hours for any delinquent act (for more on community service, see p. 45);

**e. School and Work.** Requiring the offender to obtain a high school diploma, GED, vocational training, or employment [adds vocational training to former §2151.355(A)(20), which becomes §2152.19(A)(3)(e)];

**f. Drug Monitoring.** Requiring a period of drug and alcohol use monitoring [former §2151.355(A)(18) becomes §2152.19(A)(3)(f)];

**g. Drug Assessment and Treatment.** Requiring an alcohol or drug assessment, counseling, or treatment program at a level of security deemed necessary by the court [assessment and counseling are added to former §2151.355(A)(15), which becomes §2152.19(A)(3)(g)];

**h. Curfew.** Requiring the offender to observe a curfew that may involve daytime or evening hours [former §2151.355(A)(19) becomes §2152.19(A)(3)(h)];

**i. Monitored Time.** Requiring the offender to serve monitored time, which is time subject to no conditions except to obey the law. This is new to the Juvenile Code [§2152.19(A)(3)(i)];

**j. House Arrest.** Placing the offender under house arrest, with or without electronic monitoring. This is broader than former §2151.355(A)(13), which tied house "detention" to electronic monitoring [§2152.19(A)(3)(j)].

**k. Electronic Monitoring.** Placing the offender on electronic monitoring, with or without house arrest (see j above), that does not exceed the maximum prison term available to an adult for the same offense. [Former §2151.355(A)(13) becomes §2152.19(A)(3)(k). Former (A)(10) is repealed. It contained narrower eligibility for electronic monitoring and was already negated by former (A)(12).]

The bill carries over provisions on the nature of monitoring, fees to cover the costs of monitoring, and the lack of credit for time on monitoring against other sanctions [former §2151.355(J)(1) & (2) become §2152.19(A)(3)(k), 2<sup>nd</sup> & 3<sup>rd</sup> ¶s].

**Key Changes.** S.B. 179 also makes substantive changes in electronic monitoring law.

i. Former law terminated electronic monitoring when the offender reached age 18. The bill extends the cut off to age 21, consistent with other juvenile sanctions [§2152.19(A)(3)(k), 2<sup>nd</sup> ¶].

ii. The bill broadens the definition of "electronic monitoring" for all purposes, not just juvenile law (§2929.23).

For years, the Code defined "electronic monitoring" to mean devices worn by offenders that send radio signals to a central receiver. To allow other effective technologies, the bill includes any technology that can adequately track or determine the location of a subject, approved by DRC. It includes, but is not limited to, satellite surveillance, voice tracking, and retinal scanning [§2152.19(A)(3)(k), 2<sup>nd</sup> ¶].

iii. The bill also makes clearer in the general definition of "electronically monitored house arrest" that juveniles can be subject to it not only in their homes, but in other premises specified by the court, such as schools and workplaces. [§2929.23(A)(4), with former §2929.23(A)(7)'s definitions repealed as unneeded].

**1. Driver's License Suspensions, Etc.**

**i. Optional.** Suspend the offender's driver's license, temporary permit, or the registration of all vehicles registered in the juvenile's name. The privilege cannot be returned for the time set by the court and, after that, only if the offender pays any required reinstatement fee [former §2151.355(A)(10) becomes §2152.19(A)(3)(1)].

**ii. Mandatory.** Separately, in fewer words, the bill carries over the mandatory driver's license or permit suspension for: (1) bringing weapons to school under §2923.122; (2) for a drug abuse offense; and (3) for some disorderly conduct while intoxicated [former §2151.355(D) & (C) become §2152.19(B)(1) & (2)].

**m. Abide by the Law.** In addition to any specific conditions imposed, in every case, the court must require the offender to abide by the law during the community control period [§2152.19(A)(3)]. This streamlines former law, which required the offender to obey all laws, including the gun laws [§2151.355(A)(2), 2<sup>nd</sup> ¶].

**C. Other Community Dispositions.** As before, the court also may:

**1. Child Protective Services.** Impose any order allowed by §2151.353 for the care and protection of abused, neglected, or dependent children [former §2151.355(A)(1), fleshed out as §2152.19(A)(1)]. While subject to lengthy debate, this provision emerged unchanged from former law;

**2. School, Facility, Etc.** Commit the offender to a school, camp, institution, or other facility for delinquent children [former §2151.355(A)(3) becomes §2152.19(A)(2)];

**3. Court Custody.** Commit the offender to the custody of the court [removes "temporary or permanent" custody from former §2151.355(A)(22), which becomes §2152.19(A)(4)];

**4. Victim-Offender Mediation.** With the assent of the victim, require the offender to participate in a victim-offender mediation program established by the court [former §2151.355(A)(20) becomes §2152.19(C)]. A clause in former law that permitted the mediation to discuss the offense, restitution, and sanctions was repealed as unnecessary;

**5. Anti-Truancy Measures.** Exercise options given by S.B. 181. They include:

a. Require the child "not to be" truant for 5 or more consecutive days, 7 or more days in a month, or 12 or more days in a year [§2152.19(A)(5)].

b. If the child is found delinquent for being a chronic or habitual truant, and has a prior unruly adjudication for either, the court may:

i. Require the child to participate in a truancy prevention mediation program and/or make any other community disposition [§2152.19(A)(6)(a)(i)&(ii)].

However, the court cannot place the child in a facility under 2 above *unless* he or she violated a court order. [The exception may be the norm given that the child only reaches this point for again being truant after an unruly truancy disposition.]

ii. If the court determines that the child's parent, guardian, or custodian failed to send the child to school under §3321.38, it may require the person to participate in: (1) a truancy prevention mediation program; and/or (2) a community service program, particularly one getting the person involved with the "school attended by the child" [presumably the school the child didn't attend] [§2152.19(A)(6)(b)(i) & (ii)].

The court also must warn the parent that any subsequent unruly or delinquency adjudication for habitual or chronic truancy may result in criminal charges against the parent under §§2919.21(C) or 2919.24 [§2952.19(E)];

**6. Kitchen Sink; Limits.** Make any other disposition the court finds proper, except the offender may not be placed in:

- A State prison or jail for adults [former §2151.355(A)(25) becomes §2152.19(A)(7)(a)];
- A CCF, if the offense is covered by the definition of "public safety beds" and the child was sent to DYS for secure confinement [§2152.19(A)(7)(b)].

**D. Detention**

**1. Evaluation.** Former §2151.34 (1<sup>st</sup> ¶) allowed the court to place an alleged or adjudicated delinquent in a juvenile detention facility for evaluation for up to 90 days. This authority continues, unchanged by the bill, in new §2152.04.

**2. No Direct Sentencing.** Originally, both S.B. 179 and S.B. 181 (the truancy bill) would have given juvenile courts the option of sentencing delinquents directly to detention facilities. However, this option was not in the final version of either bill.

**E. Victim Impact Statements**

**1. When Prepared.** S.B. 179 reiterates that a victim impact statement must be prepared when a child is found delinquent for certain felonious acts. However, it limits the requirement to acts involving actual or threatened physical harm to the victim [former §2151.355(H)(1)-(3) become §2152.19(D)(1)-(3)].

**2. DYS's Duty.** The bill adds that DYS must work with local probation departments and victim assistance programs to develop a standard victim impact statement [§2152.19(D)(4)].

**F. Probation Officer Duties**

Local probation officers monitor community control in the same manner as they monitored "probation" under former law [former §2151.355(L) becomes §2152.19(F)(1)].

The bill also streamlines language on notifying parents of searches by probation officers and merges it into this section [former §2151.411(C)(2)(b) becomes §2152.19(F)(2)].

### XIII. FINANCIAL DISPOSITIONS

S.B. 179 carries financial penalties over from former law, gathering them in one section. It also standardizes fines, broadens restitution, expands community service, and gives the court more collection tools [§2152.20, superseding §2151.3512 and parts of §2151.355].

#### A. Options

1. **Fines.** In prior law, fines changed irregularly between offense levels. The bill makes most increments more regular, using "rounder" numbers. In doing this, the fines available at each level either remained the same or increased slightly. These fines apply in both delinquency and JTO cases [former §§2151.355(A)(8) & 2151.3512 become §2152.20(A)(1)].

#### FINES TABLE

OFFENSE LEVEL	OLD MAXIMUM	NEW MAXIMUM
<b>Agg. murder/murder</b>	\$1800	\$2000
<b>F-1</b>	\$1450	\$1500
<b>F-2</b>	\$1000	\$1000
<b>F-3</b>	\$750	\$750
<b>F-4</b>	\$400	\$400
<b>F-5</b>	\$300	\$300
<b>M-1</b>	\$225	\$250
<b>M-2</b>	\$175	\$200
<b>M-3</b>	\$125	\$150
<b>M-4</b>	\$75	\$100
<b>MM &amp; Unclassified</b>	\$50	\$50

2. **Restitution.** The bill adds some tools to make restitution more meaningful, while clearing some clutter from the law.
  - a. **Former Law.** "Required" restitution for vandalism, criminal damaging, and criminal mischief "if appropriate". Allowed restitution in any other delinquency case [§2151.355(A)(2) & (A)(9)]. Instructed courts to consider, in favor of restitution, whether the victim was 65 or older or permanently and totally disabled [§2151.355(A)(9)(b)].
  - b. **The Bill.** Authorizes the court to order restitution in an amount based on the victim's economic loss. (S.B. 2 broadened the definition of "economic loss" to any economic detriment, including loss of income, property losses, medical costs, and funeral expenses--§2929.01(M).)

As before, restitution may be paid in lump sum or installments, as repair work, as labor for the victim, as community service work, or in "any other form" devised by the court [§2152.20(A)(3), 2<sup>nd</sup> ¶].

Here are the key provisions added by the bill:

**i. All Victims.** Rather than address specific victims, the court must consider the broader purpose of "restoring" each victim, while imposing sanctions commensurate with and not demeaning to the impact of the offense on the victim [see §2152.01, pp. 5-6].

**ii. How Paid.** The bill allows paying restitution directly to the victim in open court, as well as through the probation department or court clerk [§2152.20(A)(3), 1<sup>st</sup> ¶].

**iii. Third Parties.** The bill allows restitution to 3<sup>rd</sup> parties, other than the delinquent's insurer, for amounts paid to the victim or survivor. Priority here goes to repaying a government agency for amounts the agency paid in the case [§2152.20(A)(3), 1<sup>st</sup> ¶].

**iv. How Determined.** The bill makes clear that the court may base the amount of restitution on a figure recommended by the victim, defendant, a PSI, estimates, receipts, and other information. If disputed, the court would hold a hearing [§2152.20(A)(3), 3<sup>rd</sup> ¶].

**v. Credit.** Any restitution would be credited against any losses recovered by the victim in a civil action [§2152.20(A)(3), 3<sup>rd</sup> ¶].

**vi. Collection Fee.** The bill allows the court to order the offender to pay a surcharge of up to 5% of the amount of restitution due, to defray collecting and processing costs [§2152.20(A)(3), 4<sup>th</sup> ¶].

**vii. Modification.** The bill allows both the victim (through the prosecutor) and the defendant to file a motion to modify payment terms based on a substantial change in the offender's ability to pay [§2152.20(A)(3), 5<sup>th</sup> ¶].

**3. Costs.** As before, a delinquent or JTO could be told to pay court costs [former §2151.3512, 1<sup>st</sup> ¶, becomes 2152.20(A)(2)].

**4. Reimbursements.** The bill gathers reimbursements for various services and sanctions other than court costs.

**a. Community Control Costs.** The offender may be ordered to pay costs of implementing any community control disposition, including a supervision fee [§2152.20(A)(4)(a)].

**b. Pay-for-Stay.** As before, the court may order the offender to pay the costs of confinement in a residential facility or DYS institution. This includes, but is not limited to, a per diem for room and board, medical and dental costs, and the costs of repairing property damaged by the offender while confined [§2152.20(A)(4)(b)].

Former law had a \$10,000 cap. Consistent with a recent change to adult law, the bill instead caps pay-for-stay reimbursements at the "actual cost" of confinement incurred.

Pay-for-stay reimbursements cannot exceed the amount the offender is able to pay, as determined at a hearing.

The court may collect the reimbursement or it may be assessed under a repayment policy adopted by a county, municipality, or both.

**5. Forfeitures.** The bill carries forward various property forfeitures, as follows:

**a. Corrupt Activity.** Forfeiture for engaging in a pattern of corrupt activity under §2923.32 [former §2151.355(B)(1) becomes §2152.20(B)(1)].

**b. Drugs.** Forfeiture for felony drug abuse offenses under §§2925.41-.45 [§2151.355(I)(1) becomes §2152.20(B)(2)].

**c. Gang Activity.** Forfeiture for participating in a criminal gang under §§2923.42 & 2923.44-.47 [former §2151.355(I)(2) becomes §2152.20(B)(3)].

## **B. Ability to Pay**

The bill makes clear the court may hold a hearing if necessary to determine whether a child can pay a financial sanction [§2152.20(C)].

**C. Community Service.** As before, community service may be substituted for a financial sanction if the offender is not able to pay [§2152.20(D)]. Moreover, the bill expands community service, as follows:

- 1. Non-Indigents.** Even when the offender is not indigent, the court can order community service in lieu of, or in addition to, a financial sanction [§2152.20(D)];
- 2. MMs.** Community service can be ordered for minor misdemeanors (formerly fine-only offenses) [§2152.20(D)];
- 3. Failure to Pay.** Community service may be imposed for failure to pay any financial sanction [§2152.20(D), 2<sup>nd</sup> ¶];
- 4. Hours.** As noted above (p. 37), the court may require up to 500 hours for a felony or M-1, up to 200 hours for a M-2, M-3, or M-4, or up to 30 hours for a minor misdemeanor [§2152.19(A)(3)(d)]. This replaced former §2151.355(A)(14), which allowed up to 500 hours for any level delinquency.

**D. Improving Collection**

To improve the ability of courts to collect financial sanctions, the bill allows the clerk or other authorized person to:

- 1. Collection Contracts.** Enter into collection contracts with a public agency or private vendor. Collections can include interest from the date the sanction was imposed [§2152.20(E)(1)];
- 2. Installments.** Permit installment payments over a period of not more than 5 years [§2152.20(E)(2)]. The court can charge a reasonable fee to any offender who elects a payment plan rather than a lump sum payment [§2152.20(E)(3)];
- 3. Credit Cards, Etc.** Permit payments by credit card, debit card, or other electronic transfer. The bill allows the clerk to pay out of public money any fee associated with the electronic transfer, which may, in turn, be charged to the offender [§2152.20(E)(2)].

## **XIV. JUVENILE TRAFFIC OFFENDERS**

### **A. New Chapter, Purposes, Etc.**

Juvenile traffic offenders (JTOs) move to new Ch. 2152. Thus, the purposes and principles governing the new chapter apply to JTO cases.

### **B. Dispositions**

Traditionally, for a juvenile traffic offense, the juvenile court could make several dispositions under former §2151.356. They remain, with the minor changes noted below, as new §2152.21.

**1. Suspension.** Formerly, the court could suspend a child's operator's license or permit "for the period that the court prescribes" [former §2151.356(A)(2)]. Or it could have revoked the license or permit and revoke the registration of all vehicles registered in the child's name [former §2151.356(A)(3)]. The bill:

- a. Removes the quoted language and instead specifies that the suspension is not to exceed 2 years [§2152.21(A)(2)].
- b. Repeals the revocation language, since it is covered by the suspension clause.
- c. Repeals the almost meaningless provision on revoking the registration of vehicles owned by the child.

See 5 below for changes in drinking and driving suspensions.

**2. Financial Sanctions.** Formerly, the court could impose a fine and costs [former §2151.356(A)(1)]. These and other financial sanctions carry over in the broader reference to financial sanctions under new §2152.20 [§2152.21(A)(1)].

**3. Restitution.** Formerly, the court could order restitution for all damages caused by the child's traffic violation "or any part of the damages" [former §2151.356(A)(5)]. This carries over in the reference to financial sanctions above and as new §2152.21(A)(4). However, the quoted phrase was struck as unnecessary.

**4. Community Control.** Formerly, the court could place the offender on "probation" [former §2151.356(A)(4)]. The bill subsumes this into a reference to the broader ability of the court to place the offender under "community control" [§2152.21(A)(3)].

**5. Drinking and Driving.**

**a. Incarceration.** Other than technical amendments, the law governing placing a child in a juvenile facility for driving while intoxicated remains the same [former §2151.356(A)(6)&(7) which becomes §2152.21(A)(5)&(6)].

**b. Suspensions.** Suspensions for drinking and driving change slightly. Before, the OMVI suspension was the "time prescribed by the court" [former §2151.356(B)]. The bill replaces the quoted phrase with a suspension of at least 3 months but not more than 2 years [§2152.21(B)].

Also before, for an underage consumption violation, the suspension was 60 days to 2 years [former §2151.356(B), last sentence]. The bill repeals this provision and applies the same 3 month to 2 year range as for OMVI [§2152.21(B)].

**C. Parental Orders**

The bill authorizes the juvenile court to make certain orders to control parental conduct when a child is adjudicated a JTO [§2152.61(A)]. In addition, a parent can be required to post a bond conditioned on discharging court orders [§2152.61(B)]. Failure to comply with any order is contempt of court [§2152.61(C)]. The latter provisions existed before, but did not clearly apply to JTO cases prior to S.B. 179 (see p. 52).

**D. Suggested Rules Changes**

**1. Violations Bureau**

a. Currently, persons charged as JTOs must appear in juvenile court. Traffic Rule 13 allows courts--other than juvenile courts--to establish traffic violations bureaus.

- Violations bureaus give persons charged with minor traffic offenses the option of waiving trial, pleading guilty, and paying fines and costs to the court's clerk, without a formal court appearance.

b. To ease the burden on busy courts, the bill encourages the Supreme Court to amend Traffic Rule 13 to *permit* (not require) juvenile courts to create traffic bureaus. This will allow JTOs to pay tickets without a formal court appearance.

- However, the suggestion only would authorize juvenile traffic bureaus to handle first offense MMs (such as speeding) that do not result in accidents [Section 7(B)]. All other accused JTOs still would appear in court, as would any JTO in a jurisdiction that does not create a bureau.

c. **"No Contest" Pleas** If "no contest" pleas are allowed in juvenile court (see p. 53), the bill suggests not allowing them for a JTO who pays a fine through a violations bureau [Section 6, 2<sup>nd</sup> ¶].

## 2. **Juvenile, Not Traffic, Rules Cover JTOs**

There is confusion about whether the Juvenile Rules or the Traffic Rules control JTO cases.

The bill asks the Supreme Court to remove juvenile cases from the Traffic Rule 2 by amending the definition of "court" to exclude juvenile courts. This would allow juvenile traffic cases to fall completely under the Juvenile Rules [Section 7(A)].

**Possible confusion:** Literally removing juvenile courts from the definition of "court" in Rule 2 under Section 7(A) could make it difficult to give juvenile courts power to create traffic bureaus under the suggested amendment to Traffic Rule 13 (since the Traffic Rules would no longer apply to juvenile courts). Thus, the Court may not choose to completely remove juvenile courts from the Traffic Rules, or may completely remove them, but make clear in the Juvenile Rules that courts can establish violations bureaus.

## **XV. UNRULY CHILDREN**

### **A. Generally Under Ch. 2151**

**1. General Rule.** Ohio law uses the term "unruly" to describe juveniles who are habitually disobedient, truant, or who otherwise commit most offenses applicable only to youths (status offenses).

S.B. 179 keeps unruly cases in Ch. 2151, rather than move them with delinquency and traffic cases to Ch. 2152. The purposes of Ch. 2151 continue to govern unrulies: provide for the care, protection, and development in a family environment, if possible.

**2. Delinquency Exception.** The bill carries over the provision that allows juvenile courts to treat unruly children who violate lawful court orders as delinquents [former §2151.02(B) becomes §2152.02(F)]. Such cases would fall under new Ch. 2152.

### **B. "Unruly Child" Redefined**

**1. What's In.** The bill streamlines the definition of "unruly child". Four types of misconduct remain under the new definition:

**a. Wayward or Habitually Disobedient.** Failure to "submit" to the reasonable control of one's parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient [§2151.022(A)].

The language is the same as prior law (except "submit" replaces the awkward phrase "subject the child's self" to reasonable control). However, this clause now also covers runaway situations formerly covered by the repealed "truancy from home" clause, discussed in 2.a. below.

**b. Truancy.** Being habitually truant from *school*, if not previously adjudicated unruly for habitual truancy [§2151.022(B)].

This carries over the truancy provisions of S.B. 181 [former §2151.022(C)].

**c. Endangering Conduct.** A child who "behaves in a manner" that injures or endangers the child's or another person's health or morals [§2151.022(C)].

This carries over former §2151.022(D) with a minor refinement. The quoted phrase supplants "deports himself or herself" in former law.

**d. Status Offense.** Violating a law that is applicable only to children, other than a delinquency charge under §2923.211(A), the underage gun violations statute [§2151.022(D)].

This carries over former §2151.022(H) verbatim.

**2. What's Out.** The bill removes obsolete, redundant, and rare cases covered by other laws from the definition of "unruly child". Specifically, the bill repeals these parts of the definition:

**a. Truancy from Home.** Former §2151.022(B), governing truancy from home, was seen as unnecessary and confusing. Runaways should now fall under (A)'s "wayward or habitually disobedient" language.

**b. Attempt to Marry.** Former §2151.022(E), dealing with attempts to marry without permission, was removed for several reasons. These can be treated as wayward or habitually disobedient unrulies, delinquencies (if the juvenile falsified his or her age), or emancipations (out-of-state marriages). Also, the language was impractical, given the difficulty in proving an "attempted" marriage.

**c. Disreputable Places and People.** Former §2151.022(F), proscribing being in a "disreputable" or unlawful place or associating with "vagrant, vicious, criminal, notorious, or immoral" persons, was seen as overbroad, archaic, and partially redundant to other provisions. The illegal place aspect can be charged under delinquency law. Also, the endangering conduct provision (1.c, above) can cover many of these situations.

**d. Illegal Occupations and Immoral Situations.** Former §2151.022(G), on engaging in an illegal occupation or being in a dangerous or immoral situation, was seen as archaic and partially redundant to other provisions. The illegal occupation (e.g., prostitution) aspects can be charged as delinquencies.

### **C. Unruly Dispositions**

The bill carries over unruly dispositions from prior law. The limit on detention remains 24 hours [§2151.354(A)(5)]. Unrulies can still be detained as delinquents up to 5 days for violating a court order.

In lieu of placing a child on "probation", the bill adds flexibility by authorizing courts to place the child on "community control under any sanctions, services, and conditions" set forth in §2152.19(A)(3) [§2151.354(A)(2)]. Thus, the court can use traditional probation supervision as well as other community options.

### **D. Jurisdiction from 18 to 21**

The definition of "child" in §2151.011(B)(5) generally means a person under age 18. S.B. 179 amends the definition to make clear that the juvenile court has jurisdiction over any person adjudicated unruly until the person reaches age 21.

### **E. Tattoos and Body Piercings**

**1. Former Law.** Made it a delinquent act for a person under 18 to obtain a tattoo, ear piercing, or other body piercing without parental consent [former §3730.07(A)(1)]. The act was punishable by a fine of up to \$75 [former §3730.99(C)(1)]. Similarly, knowingly providing false information to obtain such a service also was a delinquent act [former §3730.07(A)(2)]. This act was punishable by a fine of up to \$225 [former §3730.99(C)(2)].

**2. Unruly Not Delinquent.** The bill repeals these prohibitions and delinquency penalties, leaving the unruly statutes to govern the misconduct, when applicable.

**3. Adult Penalties.** These sections also contain prohibitions against adults who give false information or impersonate a parent to help a youth obtain tattooing or piercing services. The adult penalties (M-4 for falsification; M-1 for impersonating a parent) were not changed [§§3730.07(A) & (B) & 3730.99(A) & (B)].

## **XVI. PARENTAL RESPONSIBILITY**

S.B. 179 contained a few provisions to hold parents and other guardians more accountable for children.

### **A. Orders to Control Parents**

**1. The Orders.** Former §2151.359(A)(1) authorized a juvenile court to make certain orders to control parents, guardians, and other custodians when a child was found delinquent, unruly, abused, neglected, or dependent.

The bill retains this power in the same section for unruly, abused, neglected, and dependent children. And, in the new chapter, the bill applies it to delinquency cases as before, and extends it to traffic offender cases [§2152.61(A)].

**2. Bond.** Former §2151.411(A) authorized courts to order a parent, guardian, or custodian to post a bond conditioned on the faithful discharge of court orders. However, the tool was only available after a 2<sup>nd</sup> delinquent act. The bill extends this authority to *any* unruly, abuse, neglect, and dependency case [§2151.359(A)] and *any* delinquency and JTO case [§2152.61(B)]. The court no longer has to wait for a 2<sup>nd</sup> delinquency to enforce the bond.

**3. Contempt.** Former law did not specify a penalty for violating orders designed to control parents. The bill adds to these provisions that a parent or guardian's failure to comply with an order is contempt under Ch. 2705 [§§2151.359(C) & 2152.61(C)].

### **B. Contributing to Delinquency or Unruliness**

As before, it is a crime to contribute to the delinquency or unruliness of children. There was confusion under former law over whether this covered parents. The bill makes clear that a parent, guardian, or other custodian can be charged with the offense [§2919.24(A)].

## **XVII. OTHER MATTERS**

### **A. RECLAIM "Held Harmless"**

There was concern the bill could hurt counties' share of the RECLAIM Ohio pot. In an unusual provision, the bill states that, for FY 2002 and 2003 only, the total number of beds available to all counties can't be less than the total number of beds used by all counties during FY 2000 funded by care and custody chargebacks (Line Item 401) and as "public safety beds" [§5139.41(E)]. This is the so-called "hold harmless" clause.

### **B. "No Contest" Pleas**

Current Rule 29(C) only permits "admissions" or "denials". The bill asks the Supreme Court to allow no contest pleas in juvenile traffic offender and non-traffic cases "in a manner similar to Criminal Rule 11" (Section 6, 2<sup>nd</sup> ¶). However, the section suggests that JTOs paying fines to a violations bureau should be required to admit guilt, with parental knowledge.

### **C. Racial Impact**

The bill instructs the Governor's Council on Juvenile Justice to conduct, or to commission, an evaluation of the racial composition of the children committed to DYS. The study must focus on changes made by the bill, from the establishment of the RECLAIM Ohio program until 4 years after the bill's effective date. A report must be submitted to the Governor, General Assembly, and DYS [Section 9].

### **D. Open and Closed Hearings**

Former §2151.35(A)(1) allowed juvenile courts to exclude the general public from hearings, admitting only those with a direct interest.

In *In re T.R.*, the Ohio Supreme Court instead established a balancing test: those who want access must demonstrate that their need outweighs the child's interest in keeping the hearing closed.

Consistent with *In re T.R.*, the bill amends §2151.35(A)(1) to provide that the court may, after a hearing, exclude the general public from a case, if appropriate. However, the court still can admit those persons who have a direct interest in the case (as before) and those who demonstrate that their need for access outweighs the interest in keeping the case closed.

**Note:** This doctrine may evolve further in light of Supreme Court cases in 2000 and 2001.

S.B. 179 also makes clear that the court's authority to exclude persons does not affect any victim's right under Ch. 2930 [§2151.35(A)(3)].

Of course, in every SYO case, the defendant has the adult right to an open hearing (see p. 18).

## **E. Records**

§2151.18 requires juvenile courts have keep certain records and to produce an annual report. The bill retains these provisions for Ch. 2151 cases, and repeats them for Ch. 2152 cases in §2152.71.

Former §2151.18(A) require the court to maintain certain other records in delinquency cases and to maintain a separate traffic docket and records. This provision moves to §2152.71(A). Former §2151.18(B) required the clerk to keep a statistical record of certain delinquency complaints. Former §2151.18(C) instructed the clerk to prepare an annual summary of those complaints. The bill moves these provisions to §2152.71(B) and (C), and makes clear that they also cover cases initiated by indictment or information (SYOs).

Former §2151.18(A) required the juvenile court to keep records, including an appearance docket, journal, and "cashbook". S.B. 179 removes "cashbook" and does not include it in new §2152.71.

The bill also removes language from the same section saying parents may inspect records.

## **F. What May be Coming**

In an unusual provision, the General Assembly stated its intention to do the following during the 124<sup>th</sup> session (2001-2002) [Section 10]:

- 1. Competency.** Address the issue of competency to stand trial in juvenile proceedings (the Sentencing Commission had proposed formal juvenile competency statutes as companions to S.B. 179);
- 2. RECLAIM.** Review and continue to support "RECLAIM Ohio" and the alternative schools program (for a related legislative rarity, see the "hold harmless" clause discussed in A, above);
- 3. Costs.** Review and address the anticipated costs of implementing S.B. 179.

## **XVIII. OTHER CODE IMPROVEMENTS**

The earlier parts of this outline cover the key changes made by S.B. 179. This part summarizes some minor substantive changes. It then lists mechanical changes made because of new Ch. 2152 and for other largely technical reasons. While less important, these changes explain most of the bill's 481 pages.

### **A. Detention Facility Statutes**

**1. Reorganized.** Formerly, 17 sections governed detention "homes". The bill streamlines them into 4 sections, organizes them better by topics, makes them more consistent, and removes archaic language. [Former §§2151.34-.3416 becomes: §2152.41, establishing detention facilities; §2152.42, employees; §2152.43, funding; and §2152.44, district facility trustees.] To track particular provisions, see the conversion table in D below.

**2. Noteworthy Changes.** While most provisions were reorganized without meaningful amendments, some changed:

**a. "Facility".** The bill renames detention "homes" as detention "facilities" [§§2152.41 to 2152.44 and elsewhere throughout the bill].

**b. Obsolete and Vague Language.** The bill eliminates "matron", instead using "superintendent" to cover the head of the facility, male or female [former §2151.34 5<sup>th</sup> ¶].

The vague instruction to create a "non-punitive and neutral atmosphere" also was removed, as was language on "assuring wholesome and profitable leisure time" and ensuring "all possible treatment" [former §2151.34 5<sup>th</sup> ¶].

**c. Contracts with Other Counties.** Former law did not clearly authorize counties without detention facilities to enter contracts to use another county's facility. The bill makes clear that the juvenile court may enter a contract, with commissioners' approval, to use another county's, or a joint county, detention facility [§2152.41(C)].

**d. Superintendent's Role & Bond.** The bill clarifies the law governing detention facility superintendents.

i. Former law required district superintendents to post a bond and gave them authority to control the facility. The bill makes clear these also apply to single county facilities [§2152.42(A)].

ii. The bill clarifies that, in a county facility, the superintendent appoints all employees and fixes their pay (the employees remain unclassified). In a district facility, the superintendent appoints employees and sets their pay, subject to the trustees' approval (employees other than the superintendent remain classified) [§2152.42(B)].

iii. The bill makes clearer that the superintendent serves at the pleasure of the juvenile court, or, in a district, at the pleasure of the trustees [§2152.42(A)].

**e. Consistency.** Generally, the bill fosters more consistency between single county and district detention facility law. It makes clearer that the trustees of joint facilities must operate them as provided in the sections governing single county facilities [§2152.44(E)].

**f. Costs of Joint Facilities.** The bill eliminates inconsistent language (former §2151.341, 3<sup>rd</sup> sentence which only allowed joint boards to defray costs not covered by the State through a tax levy), making clear that costs can be covered by various methods, including State funds, gifts, and tax levies [§2152.43(A)&(B)].

## **B. Miscellaneous DYS Amendments**

In addition to new duties regarding blended sentences (pp. 15-22) and regarding 10 and 11 year olds (p. 35), the bill makes some more subtle refinements to DYS law.

**1. Victim Impact Statement.** DYS must work with local probation departments and victim assistance programs to develop a standard victim impact statement [§2152.19(D)(4)].

**2. Victims' Administrator.** Following the creation of an office of victims' services in DRC under S.B. 2 in 1996, DYS created a similar office. The head of the office was called the "victims coordinator". The bill changes that title to "victims administrator" [§5139.02 & 5139.55].

**3. Transcript Timeframe.** DYS now has 14 days after releasing an offender from one of its facilities to provide the court with an updated school transcript and a summary of the youth's institutional record. [Former §2151.355(F)(5) becomes §2152.18(D)(4).] Prior law did not set a deadline. As before, DYS must provide any part of the institutional record that the court specifically requests within 5 working days.

**4. Release Authority.** In addition to making the DYS Release Authority law consistent with the new judicial release statute [§2152.22], the bill makes the following clarifying changes:

a. Makes clear that the DYS Director may appoint an interim member to the Release Authority to fill in for a member who is absent for more than 30 days [§5139.50(C)]. Former law did not contain a time frame.

b. Clarifies that the majority of Authority members constitutes a quorum, with a majority vote of the quorum needed for action [§5139.50(D)].

c. Specifies that the Authority cannot delegate its duties to make final decisions [§5139.50(G)].

### **C. Redundant and Obsolete Sections**

The bill repeals several sections that were seen as obsolete or redundant. Those not discussed elsewhere include [Section 4]:

<b>Repealed Section</b>	<b>Topic</b>
§2151.411	Parental liability for delinquent child. Seen as redundant to §§2151.359 and 2152.61, as amended.
§2151.45	Extradition expenses. Seen as redundant to general extradition law.
§2151.46	Bail. Seen as redundant to general bail law.
§2151.48	Allowed juvenile courts to sentence adult <i>females</i> to prison for certain misdemeanors. Seen as obsolete and unfair.
§2151.51	Allowed courts to order a county to pay up to 50¢ per day to maintain a dependent child when the responsible adult is imprisoned. Seen as obsolete and trivial.
§5139.24	Allowed DYS to transfer a juvenile to DRC who is incorrigible or appears incapable of benefiting from DYS programs. Never used and seen as conflicting with other law. The change does not affect SYO cases.

## D. 2151 to 2152 Conversion Table

This table helps you track the provisions that S.B. 179 moved from Ch. 2151 to new Ch. 2152. An asterisk marks a section with a key change. In addition to renumbering, technical changes were made to many of these sections, including adding cross-references to the new chapter, making language consistent with new procedures, gender-neutralizing language, and/or other mechanical improvements.

Former Section	Topic	New Section
§2151.01(B)	Delinquency purposes	§2152.01*
§2151.011(B)(5)-(a)-(f)(ii)	“Child” defined	§§2151.011(B)(5) & 2152.02(C)(1)-(6)*
§2151.02	“Delinquent child” defined	§2152.02(F)
§2151.021	“Juvenile traffic offender”	§2152.02(N)
§2151.11	Delinquency prevention	§2152.73
§2151.18(A)	Juvenile court records	§§2151.18(A) & 2152.71(A)
§2151.18(A)-(C)	Court’s delinquency records	§2152.71(A)-(C)
§2151.18(D)	Court’s annual report	§§2151.18(B) & 2152.71(D)
§2151.25	Transfer to juvenile court	§2152.03
§2151.27	Complaints	§§2151.27 & 2152.021
§2151.312	Place of detention	§§2151.312 & 2152.26
§2151.315	Delinquents’ DNA specimens	§2152.74
§2151.34 1 <sup>st</sup> ¶	Detention for evaluation	§2152.04
§2151.34 2 <sup>nd</sup> -4 <sup>th</sup> ¶s	Establish detention facilities	§2152.41(A)&(B)
§2151.34 5 <sup>th</sup> ¶	Detention facility employees	§2152.42
§2151.341	Detention facility funding	§2152.43(A) & (B)(1) 1 <sup>st</sup> ¶
§2151.342	District facility gifts	§2152.43(C)
§2151.343	District facility trustees	§2152.44(A) & (B)
§2151.344	District trustees’ meetings	§2152.44(B) 2 <sup>nd</sup> ¶
§2151.345 1 <sup>st</sup> &3 <sup>rd</sup> ¶s	Detention facility supt.	§2152.42(A)
§2151.345 2 <sup>nd</sup> ¶	Supt. names employees	§2152.42(B) 2 <sup>nd</sup> ¶
§2151.345 4 <sup>th</sup> ¶	Court controls placements	§2152.41(E)
§2151.346	Managing district facilities	§2152.41(B), 3 <sup>rd</sup> ¶
§2151.347	Site selection	§2152.44(C) 1 <sup>st</sup> ¶
§2151.348	County representative	§2152.44(A) 2 <sup>nd</sup> ¶
§2151.349	Removing district trustees	§2152.44(A) last ¶
§2151.3410	Interim trustees’ powers	§2152.44(C) 2 <sup>nd</sup> ¶
§2151.3411	District commissioner bds.	§2152.44(D) 1 <sup>st</sup> ¶
§2151.3412	Appraisal of site, etc.	§2152.43(B)(1)&(2)
§2151.3413 1 <sup>st</sup> &3 <sup>rd</sup> ¶	Withdrawal from district	§2152.41(D)
§2151.3413 2 <sup>nd</sup> ¶	Withdrawal’s effect on levy	§2152.43(B)(1) 2 <sup>nd</sup> ¶
§2151.3414	Detention fiscal officer	§2152.41(B) last ¶
§2151.3415	Commissioners’ expenses	§2152.41(B) 4 <sup>th</sup> ¶
§2151.3416	Financial assistance	§2152.43(A) 2 <sup>nd</sup> ¶
§2151.355(A)(1)	Protection dispositions	§2152.19(A)(1)
§2151.355(A)(2)	Community control	§2152.19(A)(3)*
§2151.355(A)(2)	Restitution	§2152.20(A)(3)*
§2151.355(A)(2)	Basic probation supervision	§2152.19(A)(3)(a)
§2151.355(A)(3)	Commit to school, camp, etc.	§2152.19(A)(2)
§2151.355(A)(4)-(6)	Basic DYS terms	§2152.16(A)(1)(a)-(e)*
§2151.355(A)(7)(a)-(c)	Gun & gang surpenalties	§2152.17(A)-(D)*

§2151.355(A)(8)	Fines	§2152.20(A)(1)*
§2151.355(A)(8)(a)	Restitution	§2152.20(A)(3)*
§2151.355(A)(10)	License suspensions	§2152.19(A)(3)(l)
§2151.355(A)(11)	House arrest	§2152.19(A)(3)(j)&(k)
§2151.355(A)(12)	Day reporting	§2152.19(A)(3)(c)
§2151.355(A)(13)	House arrest	§2152.19(A)(3)(j)
§2151.355(A)(14)	Community service work	§2152.19(A)(3)(d)*
§2151.355(A)(15)	Drug treatment/assessment	§2152.19(A)(3)(g)
§2151.355(A)(16)	Intensive probation	§2152.19(A)(3)(b)
§2151.355(A)(17)	Basic probation supervision	§2152.19(A)(3)(a)
§2151.355(A)(18)	Drug monitoring	§2152.19(A)(3)(f)
§2151.355(A)(19)	Curfew	§2152.19(A)(3)(h)
§2151.355(A)(20)	School & work	§2152.19(A)(3)(e)
§2151.355(A)(21)	Victim-offender mediation	§2152.19(C)
§2151.355(A)(22)	Commit to court custody	§2152.19(A)(4)
§2151.355(A)(25)	No prison or jail disposition	§2152.19(A)(7)(a)
§2151.355(B)(1)	Corrupt activities forfeiture	§2152.20(B)(1)
§2151.355(B)(3)	Consecutive DYS terms	§2152.17(E)
§2151.355(C)(2)	License suspensions	§2152.19(A)(3)(l)
§2151.355(D)	Mandatory suspensions	§2152.19(B)(1)&(2)
§2151.355(E)(1)	Victims	§2152.01
§2151.355(E)(2)	Prior offenses	§2152.16(C)
§2151.355(F)(1)	No designated DYS facility	§2152.18(A)
§2151.355(F)(2)	Medical, etc. records to DYS	§2152.18(C)(1)
§2151.355(F)(3)	Birth certificate/SS# to DYS	§2152.18(C)(2)
§2151.355(F)(4)	Transcript on admission	§2152.18(D)(3)
§2151.355(F)(5)	Transcript on release	§2152.18(D)(4)
§2151.355(F)(6)	Detention time credit	§2152.18(B)
§2151.355(G)(1)	Victim's damages	§2152.18(E)
§2151.355(G)(2)	Repeat violent offenders	§2152.17(F)*
§2151.355(H)(1)-(3)	Victim impact statements	§2152.19(D)(1)-(3)
§2151.355(I)(3)	Drug forfeitures	§2152.20(B)(2)
§2151.355(I)(2)	Gang forfeitures	§2152.20(B)(3)
§2151.355(J)(1)&(2)	Electronic monitoring	§2152.19(A)(3)(k)*
§2151.355(K)	Notice to school	§2152.18(D)(1)&(2)
§2151.355(L)	Probation officers' duties	§2152.19(F)(1)
§2151.3511	Child sex offense victims	§2152.81
§2151.3512	Fines & costs	§2152.20(A)(1)&(2)*
§2151.411	Parental liability	§§2151.359 & 2152.61
§2151.411(C)(2)(b)	Notice re probation searches	§2152.19(F)(2)
§2151.47	Juries for adults	§2152.67
§2151.62	Foster caregiver information	§§2152.72.

## E. Technical Amendments

The bill amends numerous other sections solely to make cross-references and language consistent with new Ch. 2152, to make language gender-neutral, and/or for other mechanical corrections. They include:

Section	Topic
§109.42	Victims' rights pamphlet
§109.54	BCI&I requirements

§109.573	DNA laboratory and database
§133.01	Public Securities Law definitions
§181.22	Criminal Sentencing Advisory Committee
§307.02	County commissioners' capital contracts
§307.022	Unbid leases, etc. by county commissioners
§329.05	County Job & Family Services Dept. agreements
§2151.07	Creation and powers of the juvenile court
§2151.08	Hamilton County Juvenile Court
§2151.10	Juvenile courts' appropriations
§2151.12	Juvenile court clerks
§2151.14	Duties and powers of juvenile probation depts.
§2151.141	Requests for copies of juvenile court records
§2151.211	Limits on employers
§2151.23	Juvenile court jurisdiction
§2151.28	Summons
§2151.29	Service of summons
§2151.311	Procedure upon apprehension
§2151.313	Fingerprinting or photographing a child
§2151.314	Detention hearing
§2151.352	Right to counsel
§2151.354	Unruly child dispositions
§2151.357	Cost of education
§2151.358	Sealing and expunging records
§2151.3510	Notice of intended dispositional order
§2151.36	Child support
§2151.38	Custody of child by public agency
§2151.65	County schools, forestry camps, etc.
§2151.651	Funding for county schools, etc.
§2151.652	Funds to maintain county schools
§2151.655	County taxing authority
§2151.78	Withdrawal of county from district
§2151.79	Designation of district fiscal officer
§2151.99	Fingerprint, etc. penalties
§2153.16	Specific juvenile courts' jurisdiction & powers
§2301.03	Domestic relations judgeships
§2301.31	Parole violator arrests
§2701.03	Disqualification of judge
§2744.01	Tort liability definitions
§2744.03	Tort defenses and immunities
§2921.32	Obstructing justice
§2923.32	Engaging in a pattern of corrupt activity
§2923.33	Corrupt activity forfeitable property
§2923.34	Corrupt activity civil proceedings
§2923.36	Corrupt activity lien notice
§2923.44	Corrupt activity criminal forfeiture
§2923.45	Corrupt activity civil forfeiture
§2925.42	Drug crime criminal forfeiture
§2925.43	Drug crime civil forfeiture
§2929.12	Factors to consider in felony sentencing
§2930.12	Certain victims' notices
§2930.13	Victims' statements
§2938.02	Magistrate court procedures
§3109.41	Parent killing other parent definitions
§3301.121	Department of Education expulsion procedures
§3313.66	Suspending school students

§3321.19	Habitual and chronic truants
§3321.22	Inability to send a child to school
§4109.08	Employment of minors
§5103.03	Licensing of child facilities
§5120.16	DRC classification
§5120.172	Medical care for juveniles in DRC
§5139.01	DYS Law definitions
§5139.04	DYS duties
§5139.06	Children at DYS
§5139.07	Rehabilitation and foster care
§5139.11	DYS crime prevention duties
§5139.18	DYS finding homes and jobs for released juveniles
§5139.191	Escaped children
§5139.20	DYS emergency release
§5139.27	Construction standards for schools and camps
§5139.271	Detention facility construction grants
§5139.281	Financial assistance to detention facilities
§5139.29	DYS rules for financial assistance
§5139.31	DYS inspection of funded facility
§5139.32	Release if DYS unable to help
§5139.35	DYS to notify court of transfer
§5139.51	DYS Release Authority procedures
§5139.52	DYS supervision violators
§5139.53	DYS arrest powers
§5139.54	DYS medical release
§5705.01	Tax district definitions
§5705.19	Tax levy in excess of 10-mill limitation

## **F. Harmonized Sections**

Under R.C. §1.52, the General Assembly often uses omnibus bills to harmonize various Revised Code sections that were amended by several different bills during the legislative session. S.B. 179 harmonizes disparate versions of the following provisions, by presenting them in composite form: §§2151.011, 2151.23, 2131.31, 2151.312, 2923.36, 2929.01, 2929.12, and 5139.07 [Section 11].